

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:15-CV-00587-F

FRANKLIN LEVI SESSION,)
Plaintiff/Claimant,)
)
v.)
)
NANCY A. BERRYHILL,¹)
Acting Commissioner of Social Security,)
Defendant.)

ORDER

This matter is before the court on the Memorandum and Recommendation (“M&R”) [DE-27] of United States Magistrate Judge Robert B. Jones, Jr., regarding the parties’ cross motions for judgment on the pleadings [DE-21, -23], pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This court is charged with making a *de novo* determination of those portions of the recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1). In the absence of a timely-filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

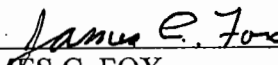
¹ Pursuant to Federal Rule of Civil Procedure 25(d), Nancy A. Berryhill, Acting Commissioner of Social Security, has been added as a party. Carolyn W. Colvin’s term expired on January 20, 2017, and she has been terminated as a party.

On February 28, 2017, the Magistrate Judge issued a M&R recommending that Plaintiff's Motion for Judgment on the Pleadings [DE-21] be DENIED, Defendant's Motion for Judgment on the Pleadings [DE-23] be ALLOWED, and the final decision of the Commission be upheld. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the M&R and the consequences if they failed to do so. The parties have filed no objections, and the time for doing so expired on March 14, 2017.

Upon careful review of the M&R and of the record generally, and having found no clear error, this court hereby ADOPTS the recommendation of the Magistrate Judge. It is therefore ORDERED that Plaintiff's Motion for Judgment on the Pleadings [DE-21] is DENIED, Defendant's Motion for Judgment on the Pleadings [DE-23] is ALLOWED, and the final decision of the Commission is upheld.

SO ORDERED.

This 20 day of March, 2017.



JAMES C. FOX
Senior United States District Judge