

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TIMOTHY COOKE,)	
)	
Plaintiff,)	
)	
v.)	1:17CV841
)	
NANCY A. BERRYHILL,)	
Acting Commissioner of)	
Social Security,)	
)	
Defendant.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on August 21, 2018, was served on the parties in this action. (Docs. 17, 18.) Plaintiff objected to the Recommendation. (Doc. 19.)

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a *de novo* determination in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.¹

¹ Plaintiff objects to the conclusion that he waived any objection to the ALJ's failure to conduct further IQ testing. Plaintiff's objections provide a selective recitation of the facts, which are more accurately set out in the Recommendation. In particular, the Recommendation indicates how Plaintiff made a strategic decision to pursue other grounds for relief and properly finds there were several occasions where Plaintiff abandoned or waived any claim for further IQ testing. For example, the ALJ stated his intention to rule on the record as presented, with no further IQ testing, Plaintiff declined to seek to obtain any other exhibits at a new hearing when asked by the ALJ, and even the

IT IS THEREFORE ORDERED that the Commissioner's decision finding no disability is AFFIRMED, that Plaintiff's Motion for Judgment on the Pleadings (Doc. 10) is DENIED, that Defendant's Motion for Judgment on the Pleadings (Doc. 14) is GRANTED, and that this action is DISMISSED with prejudice.

A Judgment dismissing this action will be entered contemporaneously with this Order.

/s/ Thomas D. Schroeder
United States District Judge

September 28, 2018

Plaintiff himself declined to offer any argument about his IQ when given the chance to do so. (Doc. 17 at 12-14.)