

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:14-CV-254-GCM-DCK

ANDREW L. WILLIFORD,

Plaintiff,

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

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ORDER

THIS MATTER IS BEFORE THE COURT *sua sponte* regarding the briefing for the pending summary judgment motions. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motions and the record, and applicable authority, the undersigned will direct Defendant to file a reply brief.

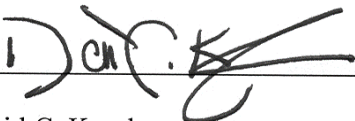
“Plaintiff’s Response to Defendant’s Memorandum In Support Of Motion For Summary Judgment” (Document No. 15) was filed on May 29, 2015. In response, Plaintiff suggests that the Fourth Circuit’s recent decision in *Mascio v. Colvin*, 780 F.3d 632 (4th Cir. 2015) supports his original assignment of error, and Plaintiff further contends that *Mascio* “implicates a new issue in this case.” (Document No. 15, pp. 1, 5). Plaintiff then argues for the first time that the ALJ failed to properly account for his limitations in concentration, persistence and pace. (Document No. 15, pp.5-6) (quoting *Mascio*, 780 F.3d at 638).

The undersigned observes that the Court’s “Social Security Briefing Order” 3:13-mc-198-FDW, (Document No. 1, p.3) directs that a response “shall be limited to five pages and may only address issues raised for the first time in the Commissioner’s Motion and Memorandum.” As such,

it appears that Plaintiff has improperly raised a new issue in his "...Response..." (Document No. 15). Nevertheless, in this instance, the undersigned will order Defendant to file a reply brief addressing the arguments in "Plaintiff's Response..." (Document No. 15), including a discussion on the implications of Mascio in this case.

IT IS, THEREFORE, ORDERED that Defendant shall file a reply brief as discussed herein on or before **August 7, 2015**.

Signed: July 27, 2015



David C. Keesler
United States Magistrate Judge

