

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CASE NO. 1:16-CV-00109-RLV-DCK**

VIOLET E. MARLOWE,)
)
 Plaintiff,)
)
 v.)
)
 NANCY A. BERRYHILL,)
 Acting Commissioner of Social Security)
)
 Defendant.)
 _____)

ORDER

On February 23, 2017, Magistrate Judge Keesler issued a Memorandum and Recommendation (M&R) holding that Plaintiff’s Motion for Summary Judgment (Doc. 10) be denied, that Defendant’s Motion for Summary Judgment (Doc. 13) be denied, that the Commissioner’s decision be vacated, and that this matter be remanded for further administrative proceedings. (Doc. 15). The M&R advised both parties of their right to file objections within fourteen days after service of the M&R and warned the parties that a failure to timely file objections would constitute a waiver of de novo review by this Court. *Id.* at 13. Neither party has exercised the right to file objections.

The Federal Magistrates Act requires a district court to ““make a de novo determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objection is made.”” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)) (emphasis and brackets omitted). Absent a timely 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.” *Id.* (internal quotation marks omitted).

This Court has reviewed the memorandum and recommendation and has not found clear error.

IT IS, THEREFORE, ORDERED THAT

- (1) The Memorandum and Recommendation (Doc. 15) is **ADOPTED**;
- (2) Plaintiff's Motion for Summary Judgment (Doc. 10) is **DENIED**;¹
- (3) Defendant's Motion for Summary Judgment (Doc. 13) is **DENIED**; and
- (4) The Commissioner's determination is **VACATED** and this matter is **REMANDED** for further administrative proceedings.

Signed: June 12, 2017



Richard L. Voorhees
United States District Judge



¹ Although this Court's order grants Plaintiff favorable relief in the form of a remand for further administrative proceedings, Plaintiff's Motion for Summary Judgment (Doc. 10) is denied, as a matter of procedure, because the Court does not provide Plaintiff the requested relief of a judgment as a matter of law on the matter of whether Plaintiff is disabled under the Social Security Act.