

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL DOCKET NO.: 5:10CV175-RLV

KEVIN GERARD HERNDON,)
Plaintiff,)
)
vs.)
)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
Defendant.)
_____)

Memorandum & Opinion

THIS MATTER is before the Court on the parties’ cross-motions for summary judgment. (Documents ##8,12-13) Pursuant to 28 U.S.C. § 636(b)(1)(B), United States Magistrate Judge David C. Keesler was designated to consider and recommend disposition in the aforesaid motion. In an opinion filed September 15, 2011, the Magistrate Judge recommended that Plaintiff Herndon’s motion for summary judgment be denied; that Defendant’s motion for summary judgment be granted; and that the Commissioner’s determination that Herndon was not disabled during the relevant time period be affirmed. (Document #14) (M & R at 13.) The Magistrate Judge also recommended that claims alleging violation of Plaintiff’s civil rights in connection with the application for disability benefits be dismissed. (M & R at 11-13.) The time for filing objections has since passed, 28 U.S.C. § 636(b)(1)(c), and no objections have been filed by either party in this matter.

After a careful review of the Magistrate Judge’s Memorandum & Recommendation, the Court finds that his findings of fact are supported by the record and his conclusions of law are consistent with and well supported by current case law. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315-16 (4th Cir.2005) (“[I]n the absence 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.”); Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982) (holding that only a careful review is required in considering a memorandum and recommendation absent specific objections.) Accordingly, the Court hereby accepts the Memorandum & Recommendation of the Magistrate Judge and adopts it as the final decision of this Court for all purposes relating to this case.

IT IS, THEREFORE, ORDERED that Plaintiff’s Motion for Summary Judgment is hereby **DENIED**; Defendant’s Motion for Summary Judgment is hereby **GRANTED**; and the Commissioner’s denial of benefits hereby **AFFIRMED**.

Signed: May 30, 2012



Richard L. Voorhees
United States District Judge

