

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL ACTION NO. 5:13-CV-118-GCM-DCK**

**JEFFREY LEE CRABB,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **CAROLYN W. COLVIN,** )  
 **Acting Commissioner of Social** )  
 **Security,** )  
 )  
 **Defendant.** )  
 )

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**ORDER**

**THIS MATTER** is before the Court upon Plaintiff Jeffery Lee Crabb’s Motion for Summary Judgment, (Doc. No. 7) and Defendant Commissioner of Social Security Carolyn W. Colvin’s Motion for Summary Judgment, (Doc. No. 19) and the Memorandum and Recommendation of Magistrate Judge David Keesler. (Doc. No. 11). For the reasons set forth below, the Court **ACCEPTS** and **ADOPTS** the Memorandum and Recommendation, **DENIES** Plaintiff’s Motion for Summary Judgment, and **DENIES** Defendant’s Motion for Summary Judgment. The Commissioner’s decision is **VACATED** and **REMANDED** for a new hearing consistent with the Memorandum and Recommendation.

The Federal Magistrate Act provides that “a district court shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *Canby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). “By contrast, 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 & Accident Ins. Co.*,

416 F.3d 310, 315 (4th Cir. 2005) (quoting FED. R. CIV. P. 72 advisory committee's note). Here, no party filed an objection to the Memorandum and Recommendation, and the time for doing so has expired.

Accordingly, after a careful review of the record in this case, the Court finds that the Magistrate Judge's findings of fact are supported by the record and his conclusions of law are consistent with and supported by current case law. Thus, the Memorandum and Recommendation is hereby ACCEPTED and ADOPTED, Plaintiff's Motion for Summary Judgment is hereby DENIED, and Defendant's Motion for Summary Judgment is hereby DENIED. The Commissioner's decision is VACATED, and this matter is REMANDED for a new hearing consistent with the Memorandum and Recommendation. The Clerk of Court is directed to close this civil case.

**SO ORDERED.**

Signed: April 25, 2014



Graham C. Mullen  
United States District Judge

