

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:16CV177-GCM-DCK

STACY MARIE SMITH, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 NANCY A. BERRYHILL, )  
 Acting Commissioner of Social Security, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court upon the Memorandum and Recommendation of United States Magistrate David C. Keesler, filed February 7, 2018. (Doc. No. 20). The parties were advised that pursuant to 28 U.S.C. § 636(b)(1)(C), written objections to the Memorandum and Recommendation must be filed within 14 days after service of the memorandum. It appears to the Court that the parties have not filed any such objections.

After an independent and thorough review of the magistrate's memorandum, the Court concludes that there is no clear error on the face of the record and that the recommendation to grant Plaintiff's Motion for Judgment on the Pleadings to the extent Plaintiff moves to remand, deny Defendant's Motion for Judgment on the Pleadings, vacate the Commissioner's determination, and remand for further consideration is correct and in accordance with law. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Accordingly, the findings and conclusions of the magistrate are accepted, Plaintiff's Motion for Judgment on the Pleadings (Doc. No. 16) is GRANTED, and Defendant's Motion for Judgment on the Pleadings

(Doc. No. 18) is DENIED. The Commissioner's determination is vacated and this matter is hereby REMANDED for further consideration.

**IT IS THEREFORE ORDERED** that the Memorandum and Recommendation of the magistrate is hereby AFFIRMED.

Signed: March 13, 2018

A handwritten signature in black ink that reads "Graham C. Mullen". The signature is written in a cursive style and is positioned above a horizontal line.

Graham C. Mullen  
United States District Judge

