UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ALMA McCARTT,

Plaintiff

v. C-1-09-861

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 11) and plaintiff's objections thereto (doc. no. 13). The Magistrate Judge concluded that plaintiff failed to promptly make any claim that she had not timely received the October 2007 notice denying her initial application. By failing to either file a timely request for hearing (within 60days of January 22, 2008) or, alternatively to move for an extension of time in which to file a request for reconsideration of the original denial, plaintiff forfeited the "ends of justice" argument she now presents to this Court. The Magistrate Judge therefore recommended that defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction (doc. no. 5) be granted and this case be dismissed with prejudice.

Plaintiff objects to the Judge's Report and Recommendation on the grounds that his findings are contrary to law.

CONCLUSION

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge.

Accordingly, the Court hereby ADOPTS AND INCORPORATES BY REFERENCE the Report and Recommendation of the United States Magistrate Judge (doc. no. 11). Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction (doc. no. 5) is GRANTED and this case is DISMISSED for lack of subject matter jurisdiction.

This case is TERMINATED on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court