

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RASHON WHITEST,
Plaintiff

v.

NANCY A. BERRYHILL,
Acting Commissioner of SSA,
Defendant ¹

No. 3:16cv1461

(Judge Munley)

(Magistrate Judge Schwab)

.....
ORDER

AND NOW, to wit, this 21st day of September 2017, we have before us for disposition Magistrate Judge Susan E. Schwab's report and recommendation (Doc. 14), which proposes that plaintiff's appeal should be granted and the Commissioner's final decision denying plaintiff's claim for Supplemental Security Income be vacated. The magistrate judge further recommends remanding the case to the Commissioner of Social Security and entering judgment in favor of plaintiff.

No objections to the report and recommendation have been filed, and the time for such filing has passed. Moreover, the government has waived the opportunity to file objections. (Doc. 15). Therefore, in deciding whether to adopt the report and recommendation, we shall determine if a review of the record

¹Carolyn Colvin was the Acting Commissioner of Social Security at the time plaintiff filed this case. Thus she was the originally named the defendant. Since then, Nancy A. Berryhill has assumed the Acting Commissioner position. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure and 42 U.S.C. § 405(g), Berryhill is automatically substituted as the named defendant.

evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 14) is **ADOPTED**;
- 2) The Commissioner's final decision denying plaintiff's claim is **VACATED** and plaintiff's appeal is **GRANTED**;
- 3) The Clerk of Court is directed to remand this case to the Commissioner of Social Security for further proceedings in accordance with the report and recommendation; and
- 4) The Clerk of Court is directed to enter judgment in favor of plaintiff and close this case.

BY THE COURT:



JUDGE JAMES M. MUNLEY
United States District Court