

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

DANIEL AITKINS, JR.,
Plaintiff

No. 3:16cv2110

(Judge Munley)

v.

NANCY A. BERRYHILL
ACTING COMMISSIONER
OF SOCIAL SECURITY,¹
Defendant



ORDER

AND NOW, to wit, this 5th day of March 2018, we have before us for disposition Magistrate Judge Susan E. Schwab's report and recommendation, which proposes the instant social security appeal be granted and the case remanded to Commissioner. No objections to the report and recommendation have been filed, and the time for such filing has passed. The defendant has, in fact, indicated that it waives the opportunity to object. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record 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).

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure and 42 U.S.C. § 405(g), Acting Commissioner Nancy A. Berryhill is automatically substituted as the named defendant in place of the original defendant, the former Commissioner of Social Security.

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:

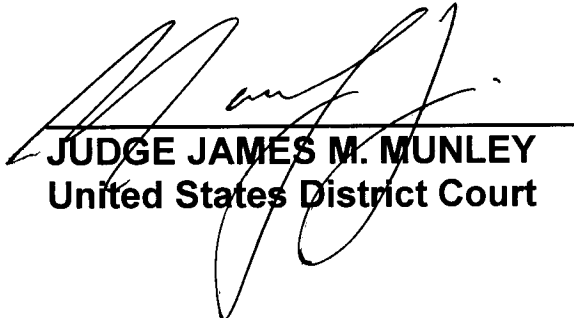
- 1) The magistrate judge's report and recommendation (Doc. 16) is **ADOPTED**;
- 2) The plaintiff's request for relief is **GRANTED** and the Commissioner's final decision denying plaintiff's claims is **VACATED** as follows:

a) The Clerk of Court is directed to remand this case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g); and

b) The Clerk of Court is directed to enter judgment in favor of plaintiff and against the defendant.

- 3) The Clerk of Court is directed to close this case.

BY THE COURT:



JUDGE JAMES M. MUNLEY
United States District Court