

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

GENE BAKER,	)	
	)	
Plaintiff,	)	Case No. 2:14-cv-490
	)	
v.	)	Judge Joy Flowers Conti
	)	Magistrate Judge Lisa Pupo Lenihan
SECRETARY/DIRECTOR SOCIAL	)	
SECURITY ADMINISTRATION,	)	ECF No. 11
	)	
	)	
Defendant	)	

**MEMORANDUM ORDER**

The Petition for Writ of Mandamus in the above captioned case was received by the Clerk of Court on April 16, 2014, and was referred to United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The magistrate judge's Report and Recommendation (ECF No. 14), filed on October 8, 2015, recommended that the Motion to Dismiss (ECF No. 11) filed by Defendant pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) be granted and the action dismissed with prejudice. Service was made on Plaintiff by U.S. Mail at his address of record, and on all counsel of record via electronic mail. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. No objections have been filed to the Report and Recommendation. Specifically, the magistrate judge recommended that due to plaintiff's failure to appeal the determinations of the Commissioner of Social Security,

this court lacks jurisdiction to hear this case. This court agrees and will dismiss this case.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

**AND NOW**, this 5<sup>th</sup> day of November, 2015,

**IT IS HEREBY ORDERED** that the Motion to Dismiss (ECF No. 11) filed by Defendant Secretary/Director Social Security Administration under Rules 12(b)(1) and 12(b)(6) is **GRANTED** and the Petition for Writ of Mandamus is **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 14) of Magistrate Judge Lenihan, dated October 8, 2015, is adopted as the opinion of the Court.

/s/ Joy Flowers Conti  
JOY FLOWERS CONTI  
United States District Judge

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All Counsel of Record  
*Via Electronic Mail*