

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|---|---|-----------------------|
| O'Dell Bill Thomas, |) | |
| |) | C/A No. 1:16-2774-MBS |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | ORDER |
| Nancy A. Berryhill, Acting Commissioner |) | |
| of Social Security, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff O'Dell Bill Thomas filed the within action on August 9, 2016, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's claims for supplemental security income benefits.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling. On June 26, 2017, the Magistrate Judge issued a Report and Recommendation in which she determined that decision of the administrative law judge (ALJ) (1) failed to incorporate into the residual functional capacity (RFC) assessment limitations a medical opinion to which he accorded substantial weight; (2) failed to comply with the provisions of SSR 96-6p in evaluating the opinion of the physician who prepared a psychiatric review technique and Plaintiff's RFC; (3) failed to present a proper hypothetical question to the vocational expert (VE); and (4) failed to identify and resolve a conflict between the VE's testimony and Dictionary of Occupational Titles. The Magistrate Judge stated that she could not determine whether the ALJ's decision is supported by substantial assistance. Accordingly, the Magistrate Judge recommended that the case be remanded for further administrative action. Plaintiff

filed no objections to the Report and Recommendation. On July 10, 2017, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of the Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The case is **reversed** pursuant to sentence four of 42 U.S.C. § 405(g) and **remanded** to the Commissioner for further consideration as set forth herein and in the Report and Recommendation.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina
July 17, 2017