

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

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|----------------------------|---|----------------------------|
| PAUL BENBOW, |) | C.A. No. 3:09-2977-CMC-JRM |
| |) | |
| Plaintiff, |) | |
| |) | OPINION AND ORDER |
| v. |) | |
| |) | |
| HARTFORD LIFE AND ACCIDENT |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |
| |) | |

This matter is before the court for review of the Report and Recommendation (“Report”) entered on February 11, 2011. Dkt. No. 31. For the reasons set forth below, the Report is adopted and Defendant’s motion for summary judgment is granted in full.

STANDARD

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “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.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

DISCUSSION

Through this action, Plaintiff, who is currently proceeding *pro se*, seeks recovery for alleged

wrongful denial of disability benefits.¹ His claim is pursued under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. § 1001, *et seq.*

On April 30, 2010, Defendant moved for summary judgment, arguing that Plaintiff was never covered under the relevant employee benefit plan. Dkt. Nos. 18-20. This argument was supported by a proffer of evidence in the form of an affidavit and plan documents. Despite being advised of the importance of this motion and his right to respond (Dkt. No. 21), Plaintiff failed to file any opposition.

Based on this record, the Report recommended that Defendant’s motion be granted, and judgment be entered in Defendant’s favor. Plaintiff was advised of his right to object to this recommendation. He did not file any objection despite passage of the time allowed for doing so. The court has, therefore, reviewed the Report for clear error. Finding none, the court adopts the Report in full.

CONCLUSION

For the reasons set forth above, the Report and Recommendation is adopted and Defendant’s motion for summary judgment is granted in full. The Clerk of Court is directed to enter judgment accordingly.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 1, 2011

¹ Plaintiff was initially represented by counsel. However, counsel sought and was granted leave to withdraw in March 2010. *See* Dkt. Nos. 10-13.