

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

William D. Pierpaoli,)	
)	C/A No. 4:12-cv-848-CMC-TER
Plaintiff,)	
)	
v.)	OPINION and ORDER
)	
Social Security Administration;)	
)	
Defendant.)	
_____)	

Through this action, Plaintiff, proceeding without counsel (“*pro se*”), appeals the decision of an Administrative Law Judge (“ALJ”), denying his claim for Disability Insurance Benefits (“DIB”) and Social Security Income (“SSI”). The Magistrate Judge conducted an initial review of the complaint pursuant to 28 U.S.C. § 1915 and issued a Report and Recommendation (“Report”), recommending the complaint be dismissed without prejudice and without service. The Report found that the court has no jurisdiction because Plaintiff has not exhausted his administrative remedies. Specifically, Plaintiff did not appeal the ALJ’s decision to the Appeals Council.

The parties were advised of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. No objections were filed and the deadline for filing objections has passed.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report 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

to the Magistrate Judge with instructions. 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).

The court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. Finding none, the court adopts and incorporates the Report by reference. For the reasons set forth therein, the court dismisses the complaint without prejudice and without issuance and service of process.

IT IS SO ORDERED.

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

Columbia, South Carolina
October 15, 2012