

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

Cynthia Ann Thomas,

Civil Action No. 4:16-cv-230-CMC

Plaintiff,

vs.

ORDER

Carolyn W. Colvin,
Acting Commissioner of Social Security
Administration,
Defendant.

This matter is currently before the court for review of the Report and Recommendation (“Report”) of Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rules 73.02(b)(2)(a) and 83.VII.02, *et seq.*, D.S.C.

The Report, filed September 7, 2016, recommends that this case be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). ECF No. 17. On September 26, 2016, Plaintiff filed objections to the Report. ECF No. 22.

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).

In this case, circumstances have changed since the Magistrate Judge filed his Report. Although Plaintiff was granted two extensions to file her brief, and failed to do so until the day the Report was filed, she has now filed her brief (ECF No. 18). That, along with her Objections to the Report, show that she does intend to prosecute her action. This court declines to adopt the Report and will not dismiss Plaintiff’s case at this time. Plaintiff is on notice that further failures to comply with deadlines and court orders will not be viewed as favorably by the court. This matter is re-referred to the Magistrate Judge for a Report and Recommendation.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
October 3, 2016