

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

Thomas Franklin Queen, II, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Nancy A. Berryhill, Acting )  
 Commissioner of Social Security, )  
 )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Civil Action No. 4:16-cv-02321-JMC

**ORDER**

Plaintiff brought this action seeking relief, pursuant to “Section 205(g) of the Social Security Act, as amended, 42 U.S.C. Section 405(g) to obtain judicial review of a final decision of the Commissioner of Social Security, denying Plaintiff’s claim for disability insurance benefits (DIB).” (ECF No. 16.) This matter is before the court for review of the Magistrate Judge’s Report and Recommendation (“Report”) (ECF No. 16), filed on August 7, 2017, recommending that the Commissioner’s decision be reversed and the matter be remanded to the Commissioner pursuant to 42 U.S.C. § 405(g) for further proceedings. The Report sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge’s recommendation herein without recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, and 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 objections are made, and the court

may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Defendant was advised of her right to file an objection to the Report. (ECF No. 16.) Instead of filing an objection, on August 8, 2017, Defendant filed Defendant's Notice of Not Filing Objections to the Report and Recommendation of the Magistrate Judge. (ECF No. 18.) Defendant's Notice states that, "Defendant, by her attorney, the undersigned United States Attorney for the District of South Carolina, hereby notifies the Court that she will not be filing objections to Magistrate Judge Rodgers' Report and Recommendation (ECF No. 16) filed August 7, 2017." (ECF No. 18.)

In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "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) (*quoting* Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985).

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law and does not contain clear error. The court **ADOPTS** the Magistrate Judge's Report and Recommendation. (ECF No. 16.) It is therefore **ORDERED** that the Commissioner's decision be **REVERSED** and **REMANDED** to Commissioner for further proceedings in accordance with this opinion.

**IT IS SO ORDERED.**

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

August 14, 2017  
Florence, South Carolina