

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

Debra Ann Walker,)	C.A. 8:08-1082-PMD
)	
Plaintiff,)	
)	
-vs-)	
)	<u>ORDER</u>
Michael J. Astrue,)	
Commissioner of Social Security,)	
)	
Defendant.)	
)	

This social security matter is before the court by the plaintiff, who is seeking judicial review of a “final decision” of the Commissioner of Social Security denying the plaintiff’s claim for benefits. In lieu of a brief, defendant filed a motion to dismiss arguing plaintiff’s appeal was out of time. The record includes the report and recommendation of United States Magistrate Bruce H. Hendricks in which report the magistrate judge recommends that defendant’s motion to dismiss be granted. The parties were given notice of the right to file objections to the report and recommendation and of the consequences for a failure to do so; however, objections have not been filed with the court.

The report and recommendation of the United States magistrate judge was made in accordance with 28 U.S.C. §636 and the local rules of this district concerning reference to a magistrate judge. Local Rule 83.VII.02, D.S.C.; Bowman v. Bordenkircher, 522 F.2d 209 (4th Cir. 1975). Under 28 U.S.C. §636(b),

[a] judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate

judge with instructions.

Absent timely objection from a dissatisfied party, a district court is not required to review, under a de novo or any other standard, a magistrate judge's factual or legal conclusions. Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 472 (1985). Here, objections to the magistrate judge's report have not been filed; therefore, there are no portions of the magistrate judge's report to which a de novo review must be made.

Accordingly, the magistrate judge's report and recommendation granting defendant's motion to dismiss is hereby adopted as the order of this court.

IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

October 17, 2008
Charleston, South Carolina