

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Kimberly Huff,)
)
Plaintiff,)
)
v.)
)
Nancy A. Berryhill,)
Acting Commissioner of Social Security)
Administration,)
)
Defendant.)
_____)

Civil Action No. 8:16-cv-03942-TMC

ORDER

Plaintiff, Kimberly Huff, brought this action pursuant to 42 U.S.C. § 405(g) and 1383(c)(3), seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his claim for Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”) pursuant to the Social Security Act. (ECF No. 1). This matter is before the court for review of the Report and Recommendation (“Report”) of the United States Magistrate Judge, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(a) (D.S.C.). (ECF No. 18). The Report recommends that the Commissioner’s decision be reversed and remanded pursuant to sentence four of § 405(g) for further proceedings consistent with the Report. (ECF No. 18). Specifically, the Magistrate Judge determined that the Administrative Law Judge (“ALJ”) should “explain her consideration of Plaintiff’s moderate limitations in concentration, persistence, or pace” in formulating Plaintiff’s residual functional capacity and should further explain or consider the hypothetical she posed to the vocational expert. (ECF No. 20 at 21).¹ Plaintiff has not filed objections to the Report. On

¹ Because this issue alone subjected the case to be remanded back to the ALJ, the Magistrate Judge did not opine as to Plaintiff’s further allegations of error but did instruct the ALJ to consider those allegations on remand. (ECF No. 20 at 21).

February 5, 2018, the Commissioner filed a notice of her intent not to file any objections to the Report. (ECF No. 22). However, Defendant does not concede that her administrative decision denying benefits to Plaintiff was not substantially justified. (ECF No. 22).

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *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 & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a thorough and careful review of the record, the court adopts the Report of the Magistrate Judge (ECF No. 20), which is incorporated herein by reference. The Commissioner’s final decision is **REVERSED AND REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative review as set forth in the Report. (ECF No. 20).

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain
United States District Judge

Anderson, South Carolina
February 13, 2018