

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

VAUGHN BARRUS,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration,

Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 1:16-cv-00056-JNP-EJF

Judge Jill N. Parrish

On September 16, 2017, Magistrate Judge Evelyn J. Furse issued a Report and Recommendation that this court remand for further consideration the final agency decision of the Commissioner of Social Security denying the disability insurance benefits claimed by Vaughn Barrus. [Docket 27]. The Report and Recommendation advised the defendant, Nancy Berryhill, that a failure to object within 14 days of service could result in a waiver of objections upon review by this court. Ms. Berryhill did not file an objection.

Ms. Berryhill's failure to object waived any argument that the Report and Recommendation was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court need not apply this waiver rule as a procedural bar if "the interests of justice so dictate." *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). The court has reviewed the Report and Recommendation and its conclusion that the Commissioner's denial of benefits should be reversed and remanded for a rehearing. *See* 42 U.S.C. § 405(g) ("The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing."). The court concludes that the Report and

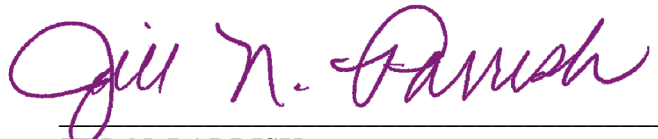
Recommendation is not clearly erroneous and finds that the interests of justice do not warrant deviation from the waiver rule. The court, therefore, ADOPTS IN FULL the Report and Recommendation.

Accordingly, the court ORDERS as follows:

1. The Report and Recommendation [Docket 27] is ADOPTED IN FULL.
2. The court reverses the final agency decision of the Commissioner of Social Security denying the disability insurance benefits claimed by Mr. Barrus and remands for further proceedings consistent with the Report and Recommendation issued by Judge Furse.

SO ORDERED October 18, 2017.

BY THE COURT:



JILL N. PARRISH
United States District Judge