

8/31/18

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

KELLY H., )  
)  
Plaintiff, )  
)  
v. )  
)  
NANCY A. BERRYHILL, Acting )  
Commissioner of Social Security, )  
)  
Defendant. )  
)  
)

Civil Action No. 5:17-cv-00024

By: Elizabeth K. Dillon  
United States District Judge

**ORDER AND FINAL JUDGMENT**

In this social security case, plaintiff Kelly H. and defendant Nancy Berryhill, Acting Commissioner of the Social Security Administration, both moved for summary judgment under Federal Rule of Civil Procedure 56. Pursuant to 28 U.S.C. § 636(b)(1)(B), the court referred the motions to U.S. Magistrate Judge Joel C. Hoppe for a report and recommendation (R&R).

On June 27, 2018, the magistrate judge issued his R&R, recommending that the court grant Kelly H.’s motion, deny the Commissioner’s motion, reverse the Commissioner’s final decision, and remand the case for further administrative proceedings. (Dkt. No. 22 at 1.) The magistrate judge also advised the parties of their right under 28 U.S.C. § 636(b)(1)(C) to file written objections to his proposed findings and recommendations within 14 days of service of the R&R. (*Id.* at 22.)

The deadline to object to the R&R has passed, and no party has filed an objection. “[I]n 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) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Upon reviewing the record here, the court is satisfied that there is no clear error on the face of the R&R. Accordingly, the court hereby ORDERS as follows:

1. The R&R (Dkt. No. 22) is ADOPTED;
2. Kelly H.’s motion for summary judgment (Dkt. No. 14) is GRANTED;
3. The Commissioner’s motion for summary judgment (Dkt. No. 18) is DENIED;
4. The Commissioner’s final decision is REVERSED;
5. The case is REMANDED for further administrative proceedings consistent with the R&R, pursuant to sentence four of 42 U.S.C. § 405(g); and
6. The case is STRUCK from the court’s active docket.

The clerk is directed to send a copy of this order to all counsel of record.

Entered: August 31, 2018.

*/s/ Elizabeth K. Dillon*  
Elizabeth K. Dillon  
United States District Judge