

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

ALINA D. STEWART,)
Plaintiff,)
v.)
NANCY A. BERRYHILL, Acting) Civil Action No. 7:15-cv-00615
Commissioner of Social Security,¹)
Defendant.)
By: Elizabeth K. Dillon
United States District Judge

ORDER AND FINAL JUDGMENT

In this social security case, plaintiff Alina D. Stewart and defendant Nancy Berryhill, Acting Commissioner of the Social Security Administration, both move 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 Robert S. Ballou for a report and recommendation (R&R).

On January 31, 2017, the magistrate judge issued his R&R, recommending that the court grant in part Stewart’s motion, deny the Commissioner’s motion, and remand the case for further administrative proceedings. (Dkt. No. 22 at 13.) 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 14.)

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

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Federal Rule of Civil Procedure 25(d), she is hereby substituted for Carolyn W. Colvin as defendant.

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, it hereby ORDERS as follows:

1. The R&R (Dkt. No. 22) is ADOPTED;
2. Stewart’s motion for summary judgment (Dkt. No. 14) is GRANTED IN PART;
3. The Commissioner’s motion for summary judgment (Dkt. No. 17) is DENIED;
4. 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
5. 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: March 9, 2017.

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