

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JAMES KENNETH TENNANT,

Plaintiff,

v. // CIVIL ACTION NO. 1:16CV51
(Judge Keeley)

CAROLYN W. COLVIN,
Acting Commissioner
of Social Security,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 17],
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 14],
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 10]**

On March 28, 2016, the plaintiff, James Kenneth Tennant ("Tennant"), filed a complaint against the defendant, Carolyn W. Colvin, Acting Commissioner of Social Security ("Commissioner") (Dkt. No. 1). In the complaint, Tennant sought review of the Commissioner's final decision denying an award of disability benefits. He contended that the decision was "contrary to the law and not supported by substantial evidence when the record as a whole is reviewed by the court." *Id.* at 2. The Commissioner filed her answer to the complaint on May 23, 2016 (Dkt. No. 6).

Pursuant to 28 U.S.C. § 636(b)(1)(B) and the local rules, the matter was referred to the Honorable Robert W. Trumble, United States Magistrate Judge, for initial review. After the Court received the administrative record (Dkt. No. 7), Magistrate Judge Trumble directed the parties to file briefs (Dkt. No. 9). Tennant filed a motion for summary judgment on June 20, 2016 (Dkt. No. 10),

**ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 17],
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 14],
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 10]**

and, after receiving an extension of time, the Commissioner filed a motion for summary judgment on August 19, 2016 (Dkt. No. 14).

In a Report and Recommendation ("R&R") dated December 15, 2016, Magistrate Judge Trumble recommended that the Court deny Tennant's motion for summary judgment, grant the Commissioner's motion for summary judgment, affirm the Commissioner's decision, and dismiss the case with prejudice (Dkt. No. 17). After a careful review of the record, Magistrate Judge Trumble concluded that Tennant's assertions of error lacked merit because the administrative law judge's decision to deny benefits was supported by substantial evidence. Id. at 36. In the R&R, Magistrate Judge Trumble also informed the parties of their right to file any objections to the recommendations within fourteen days following receipt of the R&R. See 28 U.S.C. § 636(b)(1)(C). The Court has received no objections.

"The Court will review de novo any portions of the magistrate judge's Report and Recommendation to which a specific objection is made . . . and the Court may adopt, without explanation, any of the magistrate judge's recommendations to which the prisoner does not object." Dellacirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Failure to file specific objections waives appellate

**ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 17],
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 14],
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 10]**

review of both factual and legal questions. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984); see also Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991).

Having received no objections to the R&R, the Court, therefore, is under no duty to conduct a de novo review of Magistrate Judge Trumble's findings. Furthermore, following a review of the R&R and the record for clear error, the Court adopts the opinion of the Magistrate Judge for the reasons discussed in the R&R (Dkt. No. 17).

In conclusion, the Court:

1. **ADOPTS** the R&R (Dkt. No. 17);
2. **GRANTS** the Commissioner's motion for summary judgment (Dkt. No. 14);
3. **DENIES** Tennant's motion for summary judgment (Dkt. No. 10);
4. **AFFIRMS** the decision of the Commissioner; and
5. **DISMISSES** this case **WITH PREJUDICE** and **ORDERS** that it be **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

**ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 17],
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 14],
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [DKT. NO. 10]**

Pursuant to Fed. R. Civ. P. 58, the Court **DIRECTS** the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record.

Dated: January 11, 2017.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE