

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

DESIREE WILLIAMS,

Plaintiff,

v.

**Civil Action No. 2:12-CV-16
(BAILEY)**

**MICHAEL J. ASTRUE,
Commissioner of Social
Security;**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge David J. Joel [Doc. 16]. In the R&R, the Magistrate Judge Joel concluded that the Commissioner’s decision denying Plaintiff’s application for supplemental security income is not supported by substantial evidence [*Id.* at 1]. As such, the magistrate judge recommended that Plaintiff’s Motion for Summary Judgment [Doc. 11] be granted in part and denied in part, Defendant’s Motion for Summary Judgment [Doc. 14] be granted in part and denied in part, and the decision of the Administrative Law Judge (“ALJ”) be remanded with instructions to allow the ALJ to sufficiently state specific reasons for his decision to attribute little weight to Dr. Horacek’s opinions [See Doc. 16 at 38-39].

Pursuant to 28 U.S.C. § 636 (b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made.

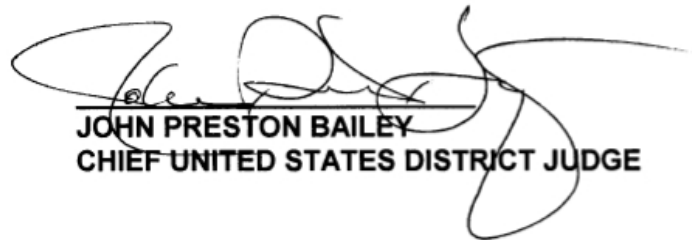
However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. **Thomas v. Arn**, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Joel's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). The magistrate judge entered the R&R on August 13, 2012; service was immediately made to counsel for the plaintiff. Accordingly, objections were due on August 27, 2012; however, to date, no objections have been filed.

Upon careful consideration, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Doc. 16**] should be, and hereby is, **ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court hereby **GRANTS in part and DENIES in part** the Plaintiff's Motion for Summary Judgment [**Doc. 11**], **GRANTS in part and DENIES in part** the Defendant's Motion for Summary Judgment [**Doc. 14**], and **REMANDS with instructions** the decision of the Administrative Law Judge to allow the Administrative Law Judge to sufficiently state specific reasons for his decision to attribute little weight to Dr. Horacek's opinions, especially relating to her opinions regarding the plaintiff's sitting, walking, and standing limitations. Accordingly, the Court hereby **ORDERS** that this matter be **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: September 4, 2012.



JOHN PRESTON BAILEY
CHIEF UNITED STATES DISTRICT JUDGE