

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

MICHAEL K. BOLYARD,

Plaintiff,

v.

**CIVIL ACTION NO. 2:16-CV-28
(BAILEY)**

**NANCY A. BERRYHILL,
Acting Commissioner of Social Security,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. [Doc. 13]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Seibert filed his R&R on March 17, 2017, wherein he recommends this Court deny the defendant's motion for summary judgment and grant the plaintiff's motion for summary judgment.

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 finding 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 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

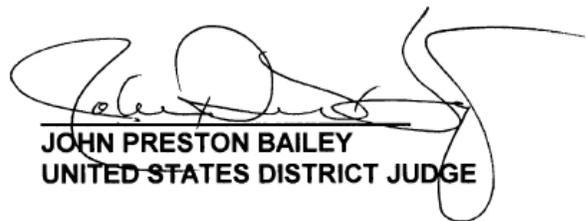
F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of service. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review, it is the opinion of this Court that the Report and Recommendation [**Doc. 13**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **GRANTS** the plaintiff's Motion for Summary Judgment [**Doc. 9**] and **DENIES** the defendant's Motion for Summary Judgment [**Doc. 11**]. Accordingly, this Court hereby **REMANDS** the plaintiff's Complaint [**Doc. 1**] to the Commissioner of Social Security. Therefore, this matter is hereby **ORDERED 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: April 3, 2017.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE