

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

JANET ALICE MORRIS,

Plaintiff,

v.

Civil Action No. 5:14CV8  
(STAMP)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**MEMORANDUM OPINION AND ORDER**  
**AFFIRMING AND ADOPTING REPORT AND**  
**RECOMMENDATION OF MAGISTRATE JUDGE**

I. Background

On January 21, 2014, the plaintiff, by counsel, filed the above-styled complaint against the Commissioner of Social Security. In conjunction with filing the complaint, the plaintiff also filed a motion to proceed in forma pauperis. The case was referred to United States Magistrate Judge John S. Kaul for submission of proposed findings of fact and recommendation for disposition pursuant to 28 U.S.C. § 636(b)(1)(B).

On January 24, 2014, the magistrate judge denied the plaintiff's motion to proceed in forma pauperis, finding that, based on the plaintiffs application and affidavit, the plaintiff has adequate funds to pay the filing and other fees incident to this civil action. The magistrate judge informed the plaintiff that she must pay the filing fee within 30 days from the date of the magistrate judge's order and failure to do so would result in the entry of a report and recommendation, recommending dismissal of

the plaintiff's complaint. The plaintiff did not comply with such order. Accordingly, on February 25, 2014, the magistrate judge entered a report recommending that this action be dismissed for failure to pay the filing fee as required by 28 U.S.C. § 1914(a). To date, no objections or other communications been have filed with this Court.

## II. Discussion

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a de novo review of any portion of the magistrate judge's recommendation to which objection is timely made. Because no objections were filed, all findings and recommendations will be upheld unless they are "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A).

The magistrate judge found that the plaintiff has not paid the required filing fee after having been ordered to do so. A review of the record indicates that the plaintiff has not paid the required fee, nor has she filed a motion for an extension of time in which to file the fee or otherwise communicated with this Court to explain her reasons for noncompliance. This Court concludes that the magistrate judge's findings are not clearly erroneous, and, accordingly, finds that the plaintiff's complaint should be dismissed for failure to pay the filing fee pursuant to 28 U.S.C. § 1914(a).

### III. Conclusion

For the reasons set forth above, this Court finds that the magistrate judge's recommendation is not clearly erroneous and hereby AFFIRMS and ADOPTS the report and recommendation of the magistrate judge in its entirety. Accordingly, the plaintiff's complaint is DISMISSED without prejudice for failure to pay the filing fee pursuant to 28 U.S.C. § 1914(a). Further, it is ORDERED that this civil action be DISMISSED and STRICKEN from the active docket of this Court.

Finally, this Court finds that the plaintiff was properly advised by the magistrate judge that failure to timely object to the report and recommendation in this action would result in a waiver of appellate rights. Because the plaintiff has failed to object, she has waived her right to seek appellate review of this matter. See Wright v. Collins, 766 F.2d 841, 844-45 (4th Cir. 1985).

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this memorandum opinion and order to counsel of record herein. Pursuant to Federal Rule of Civil Procedure 58, the Clerk is DIRECTED to enter judgment on this matter.

DATED: April 14, 2014

/s/ Frederick P. Stamp, Jr. \_\_\_\_\_  
FREDERICK P. STAMP, JR.  
UNITED STATES DISTRICT JUDGE