

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

DANIEL C. MICHAEL,

Plaintiff,

v.

CIVIL ACTION NO. 1:08-01189

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

By Standing Order, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge VanDervort submitted to the court his Findings and Recommendation on February 1, 2010, in which he recommended that the court grant the plaintiff's motion for judgment on the pleadings, deny defendant's motion for judgment on the pleadings, reverse the final decision of the Commissioner, and remand the case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

In accordance with the provisions of 28 U.S.C.A. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

No objections were filed in the requisite time period. Accordingly, the court adopts the Findings and Recommendation of Magistrate Judge VanDervort and orders as follows:

1. Plaintiff's Motion for Judgment on the Pleadings is **GRANTED**;
2. Defendant's Motion for Judgment on the Pleadings is **DENIED**
3. The final decision of the Commissioner is **REVERSED**;
4. The case is **REMANDED** to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings as outlined in the Proposed Findings and Recommendation; and
5. This Clerk is directed to remove this case from the court's active docket.

The Clerk is further directed to forward copies of this Memorandum Opinion and Order to counsel of record.

IT IS SO ORDERED this 24th day of February, 2010.

ENTER:



David A. Faber
Senior United States District Judge