

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

SUE ELLEN HARVEY,

Plaintiff,

v.

CIVIL CASE NO. 1:15-13470

NANCY A. BERRYHILL,  
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendations regarding disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley submitted his Proposed Findings and Recommendation ("PF&R") to the court on February 28, 2017, in which he recommended that the district court grant Plaintiff's Brief in Support of Judgment on the Pleadings (Doc. No. 14) to the extent Plaintiff seeks remand pursuant to sentence four of 42 U.S.C. § 405(g), deny Defendant's Brief in Support of Defendant's Decision (Doc. No. 19), reverse the final decision of the Commissioner, and remand this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g) and dismiss this matter from this court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to the Magistrate Judge's PF&R. 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. See Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's PF&R within the seventeen-day period. Having reviewed the PF&R filed by Magistrate Judge Tinsley, the court adopts the findings and recommendation contained therein.

Accordingly, the court adopts the factual and legal analysis contained within the PF&R, **GRANTS** Plaintiff's Brief in Support of Judgment on the Pleadings (Doc. No. 14) to the extent Plaintiff seeks remand pursuant to sentence four of 42 U.S.C. § 405(g), **DENIES** Defendant's Brief in Support of Defendant's Decision (Doc. No. 19), **REVERSES** the final decision of the Commissioner, **REMANDS** this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), and **DIRECTS** the Clerk to dismiss this matter from the court's docket.

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

It is **SO ORDERED** this 20th day of March, 2017.

**ENTER:**

A handwritten signature in black ink, reading "David A. Faber", written in a cursive style. The signature is positioned above a horizontal line.

David A. Faber

Senior United States District Judge