

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

ESTEL D. OWENS,

Plaintiff,

v.

CIVIL ACTION NO. 1:19-00204

ANDREW SAUL, Commissioner of the
Social Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Cheryl A. Eifert for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Eifert submitted to the court her Findings and Recommendation on April 17, 2020, in which she recommended that the court grant plaintiff's motion for judgment on the pleadings, (ECF No. 15), to the extent that it requests remand of the Commissioner's decision pursuant to sentence four of 42 U.S.C. § 405(g); deny defendant's request to affirm the decision of the Commissioner, (ECF No. 17); reverse the final decision of the Commissioner; remand this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with this PF&R; and dismiss this case, with prejudice, and remove it from the court's active docket. (ECF No. 18.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days and three mailing days in which to file any objections to Magistrate Judge Eifert's Findings and Recommendation. The failure of any party to file such objections within the time allowed 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).

Objections to the Proposed Findings and Recommendation were due by May 1, 2020. Neither party filed any objections to the Magistrate Judge's Findings and Recommendation. Accordingly, the court adopts the Finding and Recommendation of Magistrate Judge Eifert as follows:

1. Plaintiff's motion for judgment on the pleadings, (ECF No. 15), to the extent that it requests remand of the Commissioner's decision pursuant to sentence four of 42 U.S.C. § 405(g), is **GRANTED**;
2. Defendant's request to affirm the decision of the Commissioner, (ECF No. 17), is **DENIED**;
3. The final decision of the Commissioner is **REVERSED**;
4. This matter is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with this Order and the adopted PF&R;
5. This action is **DISMISSED with prejudice**; and

6. The Clerk is directed to remove this case from the court's active docket.

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

IT IS SO ORDERED this 18th day of August, 2020.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge