

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

RAY BENSON,

Plaintiff,

v.

CIVIL ACTION NO. 1:20-00411

Kilolo Kijakazi,¹
Acting Commissioner of the
Social Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Aboulhosn submitted to the court his Proposed Findings and Recommendation ("PF&R") on March 18, 2021, in which he recommended that the court deny plaintiff's request for judgment on the pleadings (ECF No. 19), grant defendant's request to affirm the decision (ECF No. 22), affirm the final decision of the Commissioner, and dismiss this matter from the Court's docket. (ECF No. 23.)

¹ Kilolo Kijakazi became the Acting Commissioner of the Social Security Administration on July 9, 2021. Pursuant to Fed. R. Civ. P. 25(d), Kijakazi was substituted for Andrew Saul as the defendant in this action.

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 objections to the PF&R. 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. See Thomas v. Arn, 474 U.S. 140, 149-50 (1985); Snyder v. Ridenour, 889 F.2d 1363, 1365-66 (4th Cir. 1989); see also 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." (emphasis added)). Neither party filed objections to the PF&R within the required time period.


Accordingly, the court adopts the PF&R as follows:

1. Plaintiff's request for judgment on the pleadings (ECF No. 19) is **DENIED**;
2. Defendant's request to affirm the decision below (ECF No. 22) is **GRANTED**;
3. Defendant's final decision is **AFFIRMED**; and
4. The case is **DISMISSED** from the court's docket.

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

IT IS SO ORDERED this 3rd day of November, 2021.

ENTER:



David A. Faber
Senior United States District Judge