

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

MARCELLA WHITTAKER,

Plaintiff,

v.

CIVIL ACTION NO. 1:21-00363

KILOLO KIJAKAZI, 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 recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley submitted to the court his Proposed Findings and Recommendation ("PF&R") on August 31, 2022, in which he recommended that the court grant the plaintiff's request to reverse the Commissioner's decision; deny defendant's request to affirm the Commissioner's decision; reverse the final decision of the Commissioner, remand the case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings as outlined in the PF&R; and dismiss this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), plaintiff was allotted fourteen days and three mailing days in which to file any objections to Magistrate Judge Tinsley's Proposed 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).

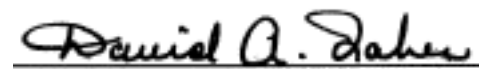
Neither party filed any objections to the Magistrate Judge's Findings and Recommendations within the required time period. Accordingly, the court adopts the Findings and Recommendations of Magistrate Judge Tinsley as follows:

1. Plaintiff's request to reverse the Commissioner's decision is **GRANTED**;
2. Defendant's Request to Affirm the Commissioner's Decision 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 directed to forward a copy of this Memorandum Opinion and Order to counsel of record.

IT IS SO ORDERED this 21st of September, 2022.

ENTER:



David A. Faber
Senior United States District Judge