

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

MARK ALLEN KITTLE,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-09548

CAROLYN W. COLVIN,

Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

On April 30, 2013, the plaintiff, Mark Allen Kittle, instituted this action seeking judicial review of the Commissioner's final decision pursuant to 42 U.S.C.A. § 405(g). The sole issue before the court is whether the decision denying Kittle's claim for income and benefits is supported by substantial evidence. See 45 U.S.C.A. § 405(g).

By standing order this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge. On February 10, 2015, the magistrate judge filed her Proposed Findings and Recommendation ("PF&R"). The court received no objections to the magistrate judge's PF&R.

In the PF&R, the magistrate judge recommends that the court dismiss Kittle's complaint for failure to prosecute his claim pursuant to Fed. R. Civ. P. 41(b) and L. R. Civ. P. 41.1. On December 15, 2014, the magistrate judge ordered Kittle to submit a brief in support of his complaint, as required by Rule 9.4, or to file a motion to remand under L. R. Civ. P. 9.5. The magistrate judge also granted an extension for the filing of Kittle's brief, provided instructions on how to obtain a copy of the Local Rules, and warned Kittle that failure to file a brief or otherwise show good cause for retention of this action on the Court's docket would result in dismissal under L. R. Civ. P. 41.1. Kittle has taken no action in response to the magistrate judge's order.

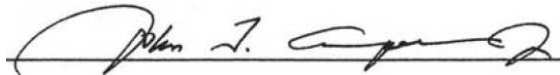
Due to the extended nature of the plaintiff's failure to file a brief in support of his complaint or otherwise show good cause for failing to do so the court adopts and incorporates herein the magistrate judge's proposed findings and recommendation. For the reasons stated, it is ORDERED as follows:

1. That the PF&R be, and it hereby is, adopted and incorporated herein;

2. That this civil action be, and it hereby is, dismissed and stricken from the docket pursuant to Fed. R. Civ. P. 41(b) and L. R. Civ. P. 41.1.

The Clerk is directed to forward copies of this written opinion and order to the plaintiff, all counsel of record and the United States Magistrate Judge.

DATED: November 23, 2015

A handwritten signature in black ink, appearing to read "John T. Copenhaver, Jr.", written over a horizontal line.

Judge John T. Copenhaver, Jr.  
United States District Judge