

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

CECIL ALLEN FOSTER,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-24973

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court are Plaintiff's Motion for Judgment on the Pleadings ("Plaintiff's Motion"), (ECF No. 7), and Defendant's Brief in Support of Defendant's Decision ("Defendant's Brief"), (ECF No. 9). By Standing Order entered on May 7, 2014 and filed in this case on August 22, 2014, this action was referred to United States Magistrate Judge Cheryl A. Eifert for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 3.) Magistrate Judge Eifert filed her PF&R on July 28, 2015, which recommends that this Court grant Plaintiff's Motion to the extent that it requests remand, deny Defendant's Brief, reverse the final decision of the Commissioner of the Social Security Administration (the "Commissioner"), remand this case, and dismiss this matter from the Court's docket. (ECF No. 10 at 59.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Plaintiff's right to appeal this Court's

Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due by August 14, 2015. To date, no objections were filed.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 10), **GRANTS** Plaintiff’s Motion insofar as it requests remand, (ECF No. 7), **DENIES** Defendant’s Brief, (ECF No. 9), **REVERSES** the final decision of the Commissioner, **REMANDS** this case pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings consistent with the PF&R, and **DISMISSES** this action from the docket of the Court.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 19, 2015



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE