

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

CHARLESTON DIVISION

RANDALL ALAN HORNER,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-cv-02444

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By *Standing Order* (Document 4) entered on April 24, 2017, this action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On July 27, 2018, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 18) wherein it is recommended that this Court deny the Plaintiff's brief/motion for judgment on the pleadings, grant the Defendant's brief/motion for judgment on the pleadings, affirm the final decision of the Commissioner, and dismiss this action from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by August 13, 2018.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. 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. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (holding that districts courts may adopt proposed findings and recommendations without explanation in the absence of objections).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's brief/motion for judgment on the pleadings (Document 15) be **DENIED** and that the Defendant's brief/motion for judgment on the pleadings (Document 16) be **GRANTED**. The Court further **ORDERS** that the final decision of the Commissioner be **AFFIRMED** and that this action be **DISMISSED** from the Court's docket.

In his *Proposed Findings and Recommendation*, the Magistrate Judge stated, by footnote, that the Plaintiff's brief in support of motion for judgment on the pleadings was filed twice, initially on August 24, 2017 (Document 14), and again on September 1, 2017 (Document 15). The Magistrate Judge further noted that his *Proposed Findings and Recommendation* would consider the later filing (Document 15). There having been no objection to the *Proposed Findings and Recommendation*, and in view of the rulings contained herein, the Court **ORDERS** that the Plaintiff's brief/motion for judgment on the pleadings (Document 14) be **TERMINATED AS MOOT**.

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge Tinsley, to counsel of record, and to any unrepresented party.

ENTER: August 17, 2018

A handwritten signature in blue ink that reads "Irene C. Berger". The signature is written in a cursive style and is positioned above a horizontal line.

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA