Thomas v. Astrue Doc. 15

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

JAMES N. THOMAS,

Plaintiff,

v. CIVIL ACTION NO. 3:10-01210

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Cheryl A. Eifert for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Eifert submitted to the court her Findings and Recommendation on September 16, 2011, in which she recommended that the court grant plaintiff's motion for judgment on the pleadings, deny defendant's motion for judgment on the pleadings, 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, 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 Eifert's Findings and Recommendation. The failure of any party to file such objections within the time allowed constitutes a waiver of

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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 Eifert as follows:

1. Plaintiff's Motion for Judgment on the Pleadings is **GRANTED**;
2. Defendant's Motion for Judgment on the Pleadings 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 12th of October, 2011.

ENTER:

David A. Faber
Senior United States District Judge