

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

**HUNTINGTON DIVISION**

MARK ALLEN TOMBLIN,

Plaintiff,

v.

CIVIL ACTION NO. 3:16-4255

NANCY A. BERRYHILL,<sup>1</sup>  
Acting Commissioner of the  
Social Security Administration,

Defendant.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court grant Claimant's Motion for Judgment on the Pleadings (ECF No. 14), to the extent that the ALJ did not properly consider the opinion evidence from Claimant's treating psychologist during the sequential evaluation process, deny Defendant's Motion for Judgment on the Pleadings (ECF No. 17), reverse the final decision of the Commissioner, and remand this matter back to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further administrative proceedings. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

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<sup>1</sup>At the time this civil action was filed, Carolyn W. Colvin was serving as the Acting Commissioner of Social Security.

Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **GRANTS** Claimant's Motion for Judgment on the Pleadings (ECF No. 14), to the extent that the ALJ did not properly consider the opinion evidence from Claimant's treating psychologist during the sequential evaluation process, **DENIES** Defendant's Motion for Judgment on the Pleadings (ECF No. 17), **REVERSES** the final decision of the Commissioner, and **REMANDS** this matter back to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further administrative proceedings, consistent with the findings and recommendations.

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

ENTER: April 5, 2017

  
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ROBERT C. CHAMBERS, CHIEF JUDGE