

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

**HUNTINGTON DIVISION**

SHAWN D. MCCALLISTER,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-0375

NANCY A. BERRYHILL,  
Acting Commissioner of the  
Social Security Administration,

Defendant.

**MEMORANDUM OPINION AND ORDER**


This action was referred to the Honorable Cheryl A. Eifert, 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 Plaintiff's request for judgment on the pleadings (ECF Nos. 6, 8), to the extent that it requests remand of the Commissioner's decision; deny Defendant's request to affirm the decision of the Commissioner (ECF No. 7); reverse the final decision of the Commissioner; remand this matter pursuant to sentences four and six of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the Proposed Findings and Recommendations; and dismiss this action from the docket of the Court. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **GRANTS** Plaintiff's request for judgment on the pleadings (ECF Nos.

6, 8), to the extent that it requests remand of the Commissioner's decision; **DENIES** Defendant's request to affirm the decision of the Commissioner (ECF No. 7); **REVERSES** the final decision of the Commissioner; **REMANDS** this matter pursuant to sentences four and six of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the Proposed Findings and Recommendations; and **DISMISSES** this action from the docket of the Court, 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: December 19, 2017

  
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ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE