

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

**HUNTINGTON DIVISION**

WAYNE ALAN ROBERTSON,

Plaintiff,

v.

CIVIL ACTION NO. 3:20-0538

KILOLO KIJAKAZI, ACTING  
COMMISSIONER OF SOCIAL SECURITY,<sup>1</sup>

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 deny Plaintiff's request for judgment on the pleadings (ECF No. 20); grant the Commissioner's request for judgment on the pleadings (ECF No. 22); affirm the decision of the Commissioner; dismiss this action, with prejudice, and remove it from the docket of the Court. No objections to the Magistrate Judge's findings and recommendations have been filed.

Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **DENIES** Plaintiff's request for judgment on the pleadings (ECF No. 20); **GRANTS** the Commissioner's request for judgment on the pleadings (ECF No. 22);

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<sup>1</sup>Kilolo Kijakazi is now the Acting Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). *See also* 42 U.S.C. § 405(g) (stating that action survives regardless of any change in the person occupying the office of the Commissioner of Social Security).

**AFFIRMS** the decision of the Commissioner; **DISMISSES** this action, with prejudice, and removes it from the docket of the Court, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: August 13, 2021

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE