

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

TIMOTHY R. S.,

Plaintiff,

v.

CIVIL ACTION NO. 5:21-cv-00576

KILOLO KIJAKAZI,
Acting Commissioner of the
Social Security Administration,

Defendant.

ORDER

Pending are the parties' cross motions for judgment on the pleadings, filed August 26, 2022, and September 13, 2022. [Docs. 20, 21]. This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Eifert filed her PF&R on October 26, 2022. [Doc. 7]. Magistrate Judge Eifert recommended that the Court deny Plaintiff's request for judgment on the pleadings, grant the Commissioner's request for judgment on the pleadings, affirm the Commissioner's decision, and dismiss this action.

The Court need not 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 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*") (emphasis added). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-*

Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on November 9, 2022. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 22**], **DENIES** Plaintiff’s request for judgment on the pleadings [**Doc. 20**], **GRANTS** Defendant’s request to affirm the decision of the Commissioner [**Doc. 21**], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: May 1, 2023



Frank W. Volk

Frank W. Volk
United States District Judge