

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CHARLES McCORMICK,

Plaintiff,

v.

CIVIL ACTION NO. 1:04-CV-211

JO ANNE B. BARNHART,
COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

REPORT AND RECOMMENDATION/OPINION

On September 27, 2004, the plaintiff, through counsel, filed a Complaint in this matter. On January 24, 2005, Defendant filed her Answer to the Complaint, and a copy of the Administrative Record. On April 8, 2005, Plaintiff, through counsel, filed a Motion to Dismiss the action [Docket Entry 11]. There has been no Response to Plaintiff's Motion by Defendant.

For reasons apparent to the Court, the undersigned therefore recommends Plaintiff's Motion to Dismiss be **GRANTED** and this matter be dismissed from the Court's docket.

Any party may, within ten (10) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should also be submitted to the Honorable W. Craig Broadwater, United States District Judge. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation. 28 U.S.C. § 636(b)(1); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984),

cert. denied, 467 U.S. 1208 (1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *Thomas v. Arn*, 474 U.S. 140 (1985).

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to all counsel of record.

DATED: May 4, 2005

/s/ John S. Kaul

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE