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

**DEBRA C. MELVIN,**

**Plaintiff,**

**v.** **CIVIL ACTION NO. 3:07cv148**
**(Maxwell)**

**MICHAEL ASTRUE,**
**COMMISSIONER, SOCIAL**
**SECURITY ADMINISTRATION,**

**Defendant.**

## ORDER

The above-styled matter is before the Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull. Magistrate Judge Kaull filed his Report and Recommendation on October 24, 2008, wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections have been filed. Accordingly, the Court will review the Magistrate's Report and Recommendation for clear error.[1]

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised in the cross motions for summary judgment were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. The Court, reviewing all matters now before it for clear error, is of the opinion that the

---

[1]The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. *See* Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

**ORDERED** that Magistrate Judge Kaull's Report and Recommendation be, and hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly,

1. The Defendant's Motion for Summary Judgment is **GRANTED**;
2. The Plaintiff's Motion for Judgment on the Pleadings is **DENIED**;
3. The decision for the Defendant is **AFFIRMED**; and
4. This civil action is **DISMISSED** and **RETIRED** from the docket of this Court.

The Clerk of Court is directed to enter a separate judgment order and to send a copy of this Order to all counsel of record.

**ENTER**: January 9th, 2009

Robert E. Maxwell
United States District Judge