

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

TERESA L. ROCKWELL,

Plaintiff,

v.

**Civil Action No. 3:08-CV-169
(Judge Bailey)**

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION/OPINION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation/Opinion (“R&R”) of United States Magistrate Judge John S. Kaul [Doc. 15], dated August 17, 2009. To date, neither party has filed objections.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, failure to file objections to the magistrate judge’s proposed findings and recommendation permits the District Court to review the recommendation under the standards that the District Court believes are appropriate, and under these circumstances, the parties’ right to *de novo* review is waived. See **Webb v. Califano**, 468 F.Supp. 825 (E.D. Cal. 1979).

On June 17, 2009, the magistrate judge issued an Order requiring the plaintiff to file a motion and brief in support of her claims on or before July 16, 2009. The Order cautioned plaintiff that failure to comply would result in a recommendation to this Court that the case be dismissed. Plaintiff never filed her brief, and on August 17, 2009, the magistrate judge did recommend to this Court that her claims be dismissed as a result of

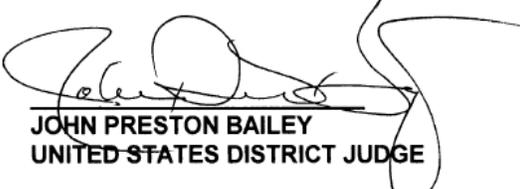
this failure.

Because no objections have been filed, this Court will review the R & R for clear error. Upon review of the R & R and the record, it is the opinion of this Court that the Magistrate Judge's Report and Recommendation/Opinion [**Doc. 15**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. Accordingly, this Court **ORDERS** that Claimant's Complaint [**Doc. 1**] be **DENIED** and that this action be **DISMISSED with prejudice** for failure to prosecute. This case is further **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein and to mail a copy to the *pro se* plaintiff.

DATED: September 8, 2009.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE