

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

NANCY M. BENTLEY,

Plaintiff,

v.

CIVIL ACTION NO. 1:13CV163
(Judge Keeley)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
REMANDING THE CASE TO THE COMMISSIONER AND DISMISSING THE
CASE WITH PREJUDICE FROM THE ACTIVE DOCKET OF THIS COURT**

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), on June 27, 2013, the Court referred this Social Security action to United States Magistrate Judge John S. Kaul with directions to submit proposed findings of fact and a recommendation for disposition.

On February 11, 2014, Magistrate Judge Kaul filed his Report and Recommendation ("R&R") (dkt. no. 14), and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file any written objections with the Clerk of Court within fourteen (14) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would

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result in a waiver of the right to appeal from the judgment of this Court. The parties did not file any objections.

Upon consideration of Magistrate Judge Kaul's recommendation and having received no written objections,¹ the Court accepts and approves the R&R and **ORDERS** that civil action be disposed of in accordance with the recommendation of the magistrate judge. Accordingly,

1. Bentley's motion for Summary Judgment (dkt. no. 9) is **GRANTED-IN-PART**;
2. The Commissioner's motion for Summary Judgment (dkt. no. 11) is **DENIED**;
3. The case is **REMANDED** to the Commissioner for consideration pursuant to the recommendations contained in the R&R; and
4. This civil action is **DISMISSED WITH PREJUDICE** and **RETIRED** from the docket of this Court.

¹ The parties' failure to object to the Report and Recommendation not only waives their appellate rights in this matter, but also 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).

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Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record.

DATED: March 7, 2014

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE