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

FREDDY C. WARNER, JR.,

Plaintiff,

v. **CIVIL ACTION NO. 1:14CV113**
(Judge Keeley)

COMMISSIONER OF SOCIAL SECURITY.

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S OPINION/REPORT AND RECOMMENDATION AND REMANDING THE CASE

This matter is before the Court for consideration of the Report and Recommendation (dkt. no. 18). Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge James E. Seibert for submission of a proposed report and recommendation ("R&R"). On August 5, 2015, Magistrate Judge Seibert filed his R&R recommending that the Defendant's Motion for Summary Judgment be denied, the Plaintiff's motion for Summary Judgment be granted in part and denied in part, and that the "case be remanded to the ALJ [Administrative Law Judge] for the limited purpose of a complete discussion as to whether the Plaintiff's impairments meet the requirements of Listing 12.05C." (R&R at 16). It also 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.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. §636(b)(1), 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, the Court is not required to 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. Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. See U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Here, objections to the R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. §636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that the R&R was entered on August 5, 2015 (dkt. no. 18) and, as of this date, the parties have not filed any objections. Accordingly this Court will review the R&R for clear error.

After careful review of the R&R, it is the opinion of this Court that Magistrate Judge Seibert's Report and Recommendation (dkt. no. 18) should be, and, is, **ADOPTED** for the reasons more fully stated therein. Therefore, the Court

1. **DENIES** the Defendant’s motion for Summary Judgment (dkt. no. 15);
2. **GRANTS IN PART and DENIES IN PART** the plaintiff's motion for Summary Judgment (dkt. no. 13); and
3. **REMANDS** this civil action to the Commissioner for further action in accordance with the recommendations contained in the R&R

It is so **ORDERED**.

The Court directs the Clerk to transmit copies of this Order to all counsel of record.

DATED: August 25, 2015.

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