

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

_____)	
FREDERICK CHANNING,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 17-461 WES
)	
NANCY A. BERRYHILL, ACTING)	
COMMISSIONER OF THE SOCIAL)	
SECURITY ADMINISTRATION,)	
)	
Defendant.)	
_____)	

ORDER

WILLIAM E. SMITH, Chief Judge.

Magistrate Judge Lincoln D. Almond filed a Report and Recommendation ("R&R") on February 21, 2018 (ECF No. 4), recommending that the Court dismiss Plaintiff's Complaint (ECF No. 1) without prejudice for failure to respond to the Court's January 10, 2018 Order To Show Cause (ECF No. 3) and for lack of diligent prosecution pursuant to LR Cv 41. Magistrate Judge Almond's recommendation resulted from Plaintiff's failure to file proof of service with the Court, and his subsequent failure to respond to the Order To Show Cause as to why the case should not be dismissed for failure to file proof of service.

Although Plaintiff filed an objection to the R&R (ECF No. 6), he failed to respond to Magistrate Judge Almond's reasons for recommending dismissal. Instead, Plaintiff provided proof

that he completed service on January 3, 2018. (See Aff. of Serv., Ex. 1, ECF No. 6-1.) However, Plaintiff's opportunity to provide proof of service has long since passed; his failure to substantively object to the R&R constitutes a waiver of any right to review by this Court and any right to appeal the Court's decision. Garayalde-Rijos v. Municipality of Carolina, 747 F.3d 15, 21-22 (1st Cir. 2014); see also Fed. R. Civ. P. 72(b)(2); LR Cv 72(c)(1).

Accordingly, after carefully reviewing the relevant papers, the Court ACCEPTS in its entirety the R&R (ECF No. 4). Plaintiff's Complaint (ECF No. 1) is, therefore, dismissed without prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "WESMITH", written over a horizontal line.

William E. Smith
Chief Judge
Date: April 26, 2018

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

FREDERICK CHANNING	:	
	:	
v.	:	C.A. No. 17-0461-WES
	:	
NANCY A. BERRYHILL, Acting	:	
Commissioner of the Social Security	:	
Administration	:	

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

This Social Security Appeal was initiated by counsel on October 5, 2017. It was direct assigned to me per Local Rule Gen. 105(a)(4).¹ On January 10, 2018, I issued an Order to Show Cause since this case had been pending over ninety days without proof of service having been filed by Plaintiff. (ECF Doc. No. 3). Plaintiff was ordered to respond in writing to the Order to Show Cause by January 31, 2018 or the case would be dismissed for lack of diligent prosecution. No response was filed. Accordingly, I recommend that this case be DISMISSED without prejudice for failure to respond to the Court's January 10, 2018 Order to Show Cause and for lack of diligent prosecution.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within fourteen days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See United States v.

¹ Absent service and the appearance of Defendant, the standard consent forms were never issued. Thus, the required Party Consent to Magistrate Judge Assignment has not been obtained.

Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
February 21, 2018