## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF OREGON

## PORTLAND DIVISION

ROGER EASTMAN,

Case No.: 3:11-00701-PK

Plaintiff,

v.

ORDER ADOPTING FINDINGS AND RECOMENDATIONS

**MICHAEL J. ASTRUE**, Commissioner of Social Security,

Defendant.

## SIMON, District Judge,

Magistrate Judge Paul Papak issued findings and recommendations in the above-captioned case on August 21, 2012. Dkt. 19. Judge Papak recommended that the Commissioner's decision be reversed and the case be remanded for further proceedings consistent with his findings and recommendations. Neither party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe a standard of review. In such cases,

"[t]here is no indication that Congress . . . intended to require a district judge to review a

magistrate's report[.]" Thomas v. Arn, 474 U.S. 140, 152 (1985); see also United States. v.

Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir.) (en banc), cert. denied, 540 U.S. 900 (2003) (the

court must review de novo magistrate's findings and recommendations if objection is made, "but

not otherwise").

Although review is not required in the absence of objections, the Act "does not preclude

further review by the district judge[] sua sponte . . . under a de novo or any other standard."

*Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b)

recommend that "[w]hen no timely objection is filed," the court review the magistrate's findings

and recommendations for "clear error on the face of the record."

No party having made objections, this court follows the recommendation of the Advisory

Committee and reviews Magistrate Judge Papak's findings and recommendations for clear error

on the face of the record. No such error is apparent. Therefore the court orders that Judge

Stewart's findings and recommendations, Dkt. #19, is ADOPTED.

Dated this <u>13thday</u> of September, 2012.

/s/ Michael H. Simon

Michael H. Simon

United States District Judge