

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

BRANDI A.,¹

Plaintiff,

v.

**Commissioner, Social Security
Administration,**

Defendant.

Case No. 6:18-cv-01140-AC

OPINION AND ORDER

Sherwood J. Reese, Drew L. Johnson, P.C., 1700 Valley River Drive, Eugene, OR 97401.
Attorney for Plaintiff.

Billy J. Williams, United States Attorney, and Renata Gowie, Assistant United States Attorney,
UNITED STATES ATTORNEY'S OFFICE, 1000 S.W. Third Avenue, Suite 600, Portland, OR 97204;
Thomas M. Elsberry, Special Assistant United States Attorney, OFFICE OF THE GENERAL
COUNSEL, Social Security Administration, 701 Fifth Avenue, Suite 2900 M/S 221A, Seattle, WA
98104. Attorneys for Defendant.

IMMERGUT, District Judge.

On November 12, 2019, Magistrate Judge John Acosta issued his Findings and
Recommendation (F&R), recommending that the Commissioner's decision be reversed. ECF 22.

¹ In the interest of privacy, this opinion uses only the first name and the initial of the last name of the non-governmental party in this case. Where applicable, this opinion uses the same designation for a non-governmental party's immediate family member.

Judge Acosta further recommended this case be remanded for the immediate calculation and award of benefits. *Id.* No party filed objections.

DISCUSSION

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s F&R, “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.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, sua sponte,” whether de novo or under another standard. *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee to the Federal Rules recommends reviewing for clear error when no timely objection is filed. Fed. R. Civ. P. 72(b) advisory committee’s note from 1983.

As no party filed objections, this Court has reviewed the F&R for clear error. Finding none, the Court adopts it in full. The Commissioner’s decision that Plaintiff was not disabled is REVERSED, and this proceeding is REMANDED for the immediate calculation and payment of benefits.

IT IS SO ORDERED.

DATED this 20th day of December, 2019.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge