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**UNITED STATES DISTRICT COURT**

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**DISTRICT OF ARIZONA**

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Jeanette Cherry,

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Plaintiff,

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v.

CV 08-478 TUC DCB

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Michael J. Astrue, Commissioner of Social Security,

**ORDER**

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Defendant,

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Standard of Review

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The duties of the district court, when reviewing a Report and Recommendation (R&R) of a Magistrate Judge, are set forth in Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Fed.R.Civ.P. 72(b), 28 U.S.C. § 636(b)(1). When the parties object to a R&R, “[a] judge of the [district] court shall make a de novo determination of those portions of the [R&R] to which objection is made.” 28 U.S.C. § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). When no objections are filed, the district court does not need to review the R&R *de novo*. *Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th Cir.2003) (en banc).

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Report and Recommendation

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On May 25, 2004, the Honorable Jennifer C. Guerin, United States Magistrate Judge, filed a R&R in this action. The R&R advises the Court to affirm the decision by the Social Security Administration denying Plaintiff disability benefits. The Magistrate Judge found the

1 Administrative Law Judge's decision was supported by substantial evidence. She recommends  
2 that the Court grant summary judgment for the Defendant.

3 The parties were sent copies of the R&R and instructed that, pursuant to 28 U.S.C. §  
4 636(b), they had 10 days to file written objections to the R&R. *See also*, Federal Rule of Civil  
5 Procedure 72(b) (party objecting to the recommended disposition has ten (10) days to file  
6 specific, written objections). To date, no objections have been filed.

7 Pursuant to 28 U.S.C. § 636(b), this Court makes a *de novo* determination as to those  
8 portions of the R&R to which there are objections. 28 U.S.C. § 636(b)(1)(C) ("A judge of the  
9 court shall make a de novo determination of those portions of the report or specified proposed  
10 findings and recommendations to which objection is made.") To the extent that no objection has  
11 been made, arguments to the contrary have been waived. *McCall v. Andrus*, 628 F.2d 1185,  
12 1187 (9<sup>th</sup> Cir. 1980) (failure to object to Magistrate's report waives right to do so on appeal); *see*  
13 *also*, Advisory Committee Notes to Fed. R. Civ. P. 72 (citing *Campbell v. United States Dist.*  
14 *Court*, 501 F.2d 196, 206 (9<sup>th</sup> Cir. 1974) (when no timely objection is filed, the court need only  
15 satisfy itself that there is no clear error on the face of the record in order to accept the  
16 recommendation).

17 The Court has reviewed the R&R and considers it to be thorough and well-reasoned; it  
18 is neither clearly erroneous nor contrary to law. *United States v. Remsing*, 874 F.2d 614, 617-  
19 618 (9<sup>th</sup> Cir. 1989). The R&R shall, therefore, be accepted pursuant to 28 U.S.C. § 636(b)(1).  
20 The Court adopts the recommendation of the Magistrate Judge. For the reasons stated in the  
21 R&R, the Court grants the Motion for Summary Judgment filed by Defendant.

22 **Accordingly,**

23 **IT IS ORDERED** that the Report and Recommendation [Doc. # 28] is adopted as the  
24 opinion of the Court.

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**IT IS FURTHER ORDERED** that Motion for Summary Judgment [Doc. # 22] is GRANTED; the Clerk of the Court shall enter judgment accordingly.

DATED this 29<sup>th</sup> day of July, 2009.



David C. Bury  
United States District Judge