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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

William Robert Clarke,
Plaintiff,
v.
Michael J. Astrue, Commissioner of Social Security,
Defendant,

CV 08-604 TUC DCB(BPV)

ORDER

Standard of Review

The duties of the district court, when reviewing a Report and Recommendation 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 Report and Recommendation (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).

Report and Recommendation

On March 31, 2010, the Honorable Bernardo P. Velasco, United States Magistrate Judge, filed a R&R in this action. The R&R advises the Court to reverse the Administrative Law Judge’s decision and remand the matter for further administrative proceedings. The Magistrate

1 Judge found the Administrative Law Judge's decision was not supported by substantial evidence
2 and remand is necessary for the Administrative Law Judge to obtain a vocational expert's
3 testimony to determine if Petitioner's limitations preclude him from performing jobs that exist
4 in sufficient numbers in the national and local economy.

5 The parties were sent copies of the R&R and instructed that, pursuant to 28 U.S.C. §
6 636(b), they had 14 days to file written objections to the R&R. *See also*, Federal Rule of Civil
7 Procedure 72(b) (party objecting to the recommended disposition has ten (10) days to file
8 specific, written objections). To date, no objections have been filed.

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

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

25 **Accordingly,**

26 **IT IS ORDERED** that the Report and Recommendation [Doc. # 21] is adopted as the
27 opinion of the Court.
28

