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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CARLOS HERNANDEZ OLIVERA,

Plaintiff,

vs.

MICHAEL J. ASTRUE,

Defendant.

CASE NO. 09-CV-1558 JLS (RBB)

**ORDER: (1) ADOPTING REPORT
AND RECOMMENDATION;
(2) DENYING PLAINTIFF’S
MOTION FOR SUMMARY
JUDGMENT; (3) GRANTING
DEFENDANT’S MOTION FOR
SUMMARY JUDGMENT**

(Doc. Nos. 12, 14, 15)

Presently before the Court are Plaintiff’s motion for summary judgment (Doc. No. 12), Defendant’s motion for summary judgment (Doc. No. 14), and Magistrate Judge Brooks’s report and recommendation recommending that the Court grant Defendant’s motion and deny Plaintiff’s motion (Doc. No. 15).

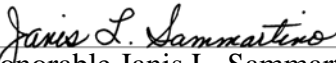
Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district court’s duties in connection with a magistrate judge’s report and recommendation. The district court must “make a de novo determination of those portions of the report to which objection is made,” and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). However, in the absence of timely objection, the Court “need only satisfy itself that there is no clear error on the face of the record in

1 order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note (citing *Campbell*
2 *v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

3 Here, Plaintiff has failed to timely file objections to Magistrate Judge Brooks’s report and
4 recommendation. Having reviewed the report and recommendation, the Court finds that it is thorough,
5 well reasoned, and contains no clear error. Accordingly, the Court hereby (1) **ADOPTS** Magistrate
6 Judge Brooks’s report and recommendation, (2) **DENIES** Plaintiff’s motion for summary judgment,
7 and (3) **GRANTS** Defendant’s motion for summary judgment. This Order concludes the litigation
8 in this matter. The Clerk shall close the file.

9 **IT IS SO ORDERED.**

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11 DATED: January 14, 2011

12 
13 Honorable Janis L. Sammartino
14 United States District Judge

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