

1 Act, since the Plaintiff's alleged disability onset date of February 4, 2000. On September 18,
2 2009, the Appeals Council denied Plaintiff's request for further review.

3 On October 14, 2009, Plaintiff, represented by counsel, commenced this action seeking
4 judicial review of Defendant's decision pursuant to 42 U.S.C. § 405(g). On March 31, 2010,
5 Plaintiff filed the Motion for Summary Judgment. (Doc. # 13). On April 13, 2010, Defendant
6 filed the Cross-Motion for Summary Judgment. (Doc. # 14).

7 On July 30, 2010, the Magistrate Judge issued the Report and Recommendation. (Doc.
8 # 18). The Report and Recommendation recommends that Plaintiff's Motion for Summary
9 Judgment be denied and Defendant's Cross-Motion for Summary Judgment be granted. The
10 Report and Recommendation concludes:

11 IT IS HEREBY ORDERED that any written objections to this Report
12 must be filed with the Court and served on all parties no later than August 16,
13 2010. The document should be captioned 'Objections to Report and
14 Recommendation.'

15 IT IS FURTHER ORDERED that any reply to the objections shall be
16 filed with the Court and served on all parties no later than August 23, 2010. The
17 parties are advised that failure to file objections within the specified time may
18 waive the right to raise those objections on appeal of the Court's order.

19 *Id.* at 18 (citing *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)).

20 The docket reflects that no objections to the Report and Recommendation have been
21 filed.

22 REVIEW OF THE REPORT AND RECOMMENDATION

23 The duties of the district court in connection with a report and recommendation of a
24 magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b).
25 The district judge must "make a de novo determination of those portions of the report ... to
26 which objection is made," and "may accept, reject, or modify, in whole or in part, the findings
27 or recommendations made by the magistrate." 28 U.S.C. § 636(b). The district court need not
28 review de novo those portions of a Report and Recommendation to which neither party objects.
See Wang v. Masaitis, 416 F.3d 992, 1000 n.13 (9th Cir. 2005); *U.S. v. Reyna-Tapia*, 328 F.3d
1114, 1121-22 (9th Cir. 2003) (en banc).

A court "will disturb the denial of benefits only if the decision contains legal error or


1 is not supported by substantial evidence.” *Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9th Cir.
2 2008) (quotation omitted). “Substantial evidence is such relevant evidence as a reasonable
3 mind might accept as adequate to support a conclusion. The evidence must be more than a
4 mere scintilla but not necessarily a preponderance.” *Id.* (quotations omitted).

5 After review of the Report and Recommendation, the March 3, 2009 written opinion
6 of the administrative law judge, the administrative record, and the submissions of the parties, the
7 Court concludes that the Magistrate Judge correctly found that the decision to deny benefits
8 is free of legal error and is supported by substantial evidence.

9
10 **CONCLUSION**

11 IT IS HEREBY ORDERED that: (1) the Report and Recommendation (Doc. # 18) is
12 ADOPTED in its entirety; (2) Plaintiff’s Motion for Summary Judgment (Doc. # 13) is
13 DENIED; and (3) Defendant’s Cross-Motion for Summary Judgment (Doc. # 14) is
14 GRANTED. The Clerk shall enter judgment for Defendant and against Plaintiff.

15 DATED: August 26, 2010

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17 **WILLIAM Q. HAYES**
18 United States District Judge
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