

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 STEPHANIE L. GARDNER,
12
13 vs. Plaintiff,
14 MICHAEL J. ASTRUE, Commissioner of
Social Security Administration,
15 Defendants.
16

CASE NO. 10cv1181-LAB (RBB)
**ORDER ADOPTING REPORT
AND RECOMMENDATION; AND
ORDER OF DISMISSAL**

17 On June 2, 2010, Plaintiff filed her complaint seeking review of denial of security
18 benefits. This was her second complaint filed in this Court, the first having been dismissed
19 for failure to prosecute.

20 This matter was referred to Magistrate Judge Ruben Brooks for report and
21 recommendation pursuant to 28 U.S.C. § 636. Defendant filed a motion to dismiss, which
22 Plaintiff failed to oppose. Judge Brooks issued his report and recommendation (the "R&R"),
23 recommending that the complaint be dismissed. The R&R also permitted the parties to file
24 objections to the R&R no later than January 12, 2011. Neither party has filed objections.

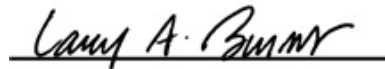
25 A district court has jurisdiction to review a Magistrate Judge's report and
26 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "The district judge must
27 determine de novo any part of the magistrate judge's disposition that has been properly
28 objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part, the

1 findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The
2 Court reviews de novo those portions of the R&R to which specific written objection is made.
3 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). "The statute
4 makes it clear that the district judge must review the magistrate judge's findings and
5 recommendations de novo *if objection is made*, but not otherwise." *Id.* When no objections
6 are filed, the Court need not review *de novo* the Report and Recommendation. *Wang v.*
7 *Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005).

8 The Court has reviewed the R&R, finds it to be correct, and **ADOPTS** it. Defendant's
9 unopposed motion to dismiss is **GRANTED**. This action is **DISMISSED WITH PREJUDICE**
10 for failure to state a claim.

11 **IT IS SO ORDERED.**

12 DATED: June 2, 2011

13 

14 **HONORABLE LARRY ALAN BURNS**
15 United States District Judge
16
17
18
19
20
21
22
23
24
25
26
27
28