

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

ANNA MARIE S SIBALA,	
	Plaintiff,
vs.	
MICHAEL J ASTRUE,	
	Defendant.

CASE NO. 10-CV-1964 JLS (CAB)

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

(ECF Nos. 14, 16, 19)

Presently before the Court are Plaintiff Anna Marie Sibala’s motion for summary judgment (ECF No. 14), Defendant Michael Astrue’s cross-motion for summary judgment (ECF No. 16), and Magistrate Judge Cathy Ann Bencivengo’s report and recommendation advising the Court to deny Plaintiff’s motion and grant Defendant’s motion (R&R, ECF No. 19).

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

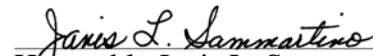
1 order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note (citing *Campbell*
2 *v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United States v. Reyna-Tapia*, 328
3 F.3d 1114, 1121 (9th Cir. 2003) (“[T]he district judge must review the magistrate judge’s findings and
4 recommendations *de novo* if objection is made, but not otherwise.”).

5 Here, neither party has timely filed objections to Magistrate Judge Bencivengo’s report and
6 recommendation. (*See* R&R 24–25 (objections due by July 5, 2011).) Having reviewed the report
7 and recommendation, the Court finds that it is thorough, well reasoned, and contains no clear error.
8 Accordingly, the Court hereby (1) **ADOPTS** Magistrate Judge Bencivengo’s report and
9 recommendation, (2) **DENIES** Plaintiff’s motion for summary judgment, and (3) **GRANTS**
10 Defendant’s cross-motion for summary judgment. This Order concludes the litigation in this matter.

11 The Clerk shall close the file.

12 **IT IS SO ORDERED.**

13
14 DATED: July 11, 2011

15 
16 Honorable Janis L. Sammartino
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28