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

ARMANDO LUIS, II,

Plaintiff,

vs.

MICHAEL J. ASTRUE,

Defendant.

CASE NO. 10CV2393 JLS (JMA)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION;
(2) GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT; (3) GRANTING IN
PART AND DENYING IN PART
DEFENDANT'S CROSS-MOTION
FOR SUMMARY JUDGMENT;
AND (4) REMANDING CASE FOR
FURTHER PROCEEDINGS**

(ECF Nos. 14, 15, 17)

Presently before the Court are Plaintiff Armando Luis, II's ("Plaintiff") and Defendant Michael J. Astrue's ("Defendant") cross-motions for summary judgment. (Pl.'s MSJ, ECF No. 14); (Def.'s MSJ, ECF No. 15) Also before the Court are Magistrate Judge Jan M. Adler's report and recommendation ("R&R") recommending that the Court grant in part and deny in part Plaintiff's motion for summary judgment, grant in part and deny in part Defendant's motion for summary judgment, and remand the case for further proceedings. (R&R, ECF No. 17)

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 R&R. The district court must "make a de novo determination of those portions of the report to which objection is made," and "may accept, reject,

1 or modify, in whole or in part, the findings or recommendations made by the magistrate judge.”
2 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 673–76 (1980); *United*
3 *States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). However, in the absence of timely
4 objection, the Court “need only satisfy itself that there is no clear error on the face of the record in
5 order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note (citing
6 *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

7 Here, Magistrate Judge Adler directed the parties to file any objections to the R&R on or
8 before August 15, 2012. (R&R 17, ECF No. 17) Neither party has filed timely objections to the
9 R&R. Having reviewed the R&R, the Court finds that it is thorough, well reasoned, and contains
10 no clear error. Accordingly, the Court hereby **ADOPTS** Magistrate Judge Adler’s R&R and
11 Orders as follows:


12 (1) Plaintiff’s motion for summary judgment is **GRANTED IN PART AND DENIED**
13 **IN PART**, as set forth in the R&R;

14 (2) Defendant’s motion for summary judgment is **GRANTED IN PART AND DENIED**
15 **IN PART**, as set forth in the R&R; and

16 (3) This case is **REMANDED** for further proceedings, as set forth in the R&R.

17 **IT IS SO ORDERED.**

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19 DATED: August 30, 2012

20 
21 Honorable Janis L. Sammartino
22 United States District Judge
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