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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DANIEL G. HRIVNAK,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 11-CV-2230 W

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION
[DOC. 17], (2) GRANTING
PLAINTIFF'S SUMMARY-
JUDGMENT MOTION [DOC. 11],
(3) DENYING DEFENDANT'S
SUMMARY-JUDGMENT MOTION
[DOC. 16], AND (4) REMANDING
CASE**

On September 26 , 2011, Plaintiff Daniel G. Hrivnak filed a complaint in this Court seeking judicial review of the Social Security Administration's denial of his Disability Insurance Benefits claim under the Social Security Act. On September 27, 2011, the Court referred the matter to United States Magistrate Judge Jan M. Adler for a Report and Recommendation in accordance with 28 U.S.C. § 636(b) (1) (B) and Local Rule 72.1. The parties then filed cross-motions for summary judgment.

On September 11, 2012, Judge Adler issued a Report and Recommendation ("Report"), recommending that the Court grant Plaintiff's summary-judgment motion, deny Defendant's summary-judgment motion, and remand the case back to the Social

1 Security Administration for proceedings consistent with the Report. (*See Report* [Doc.
2 17], 18:19–21.) The Report also required the parties to file any objections by October
3 2, 2012, and file any replies to objections by October 16, 2012. (*Id.* at 18:24–27.) To
4 date, the parties have filed no objections and have not requested additional time to file
5 objections.

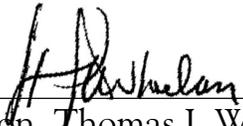
6 A district court’s duties concerning a magistrate judge’s report and
7 recommendation and a respondent’s objections thereto are set forth in Rule 72(b) of
8 the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When parties file no
9 objections to a magistrate judge’s report and recommendation, a district court need not
10 review that report and recommendation. See United States v. Reyna-Tapia, 328 F.3d
11 1114, 1121 (9th Cir. 2003) (holding that 28 U.S.C. 636(b)(1)(c) “makes it clear that
12 the district judge must review the magistrate judge’s findings and recommendations de
13 novo *if objection is made*, but not otherwise”) (emphasis in original); Schmidt v.
14 Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Arizona 2003) (concluding that where no
15 objections were filed, the District Court had no obligation to review the magistrate
16 judge’s Report). This rule is well established within the Ninth Circuit and this district.
17 See Wang v. Masaitis, 416 F.3d 992, 1000 n. 13 (9th Cir. 2005) (stating “[o]f course,
18 de novo review of a R & R is *only* required when an objection is made to the R &
19 R.”) (emphasis added) (citing Renya-Tapia, 328 F.3d at 1121); Nelson v. Giurbino, 395
20 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopting Report without review
21 because neither party filed objections to the Report despite the opportunity to do so,
22 stating, “accordingly, the Court will adopt the Report and Recommendation in its
23 entirety.”); see also Nichols v. Logan, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004)
24 (Benitez, J.).

25 Therefore, the Court accepts Judge Adlers’ Report, and **ADOPTS** the Report
26 [Doc. 17] in its entirety. For the reasons stated in the Report, which is incorporated
27 herein by reference, the Court **GRANTS** Plaintiff’s summary-judgment motion [Doc.
28 11], **DENIES** Defendant’s summary-judgment motion [Doc. 16], and **REMANDS** the

1 case to the Social Security Administration for proceedings consistent with the Report.
2 Upon remand, the district court clerk shall close the district court case file.

3 **IT IS SO ORDERED.**

4 DATED: February 25, 2013

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7 Hon. Thomas J. Whelan
8 United States District Judge

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