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

DEBORAH E. EDWARDS,

Plaintiff,

vs.

CAROLYN W. COLVIN,

Defendant.

CASE NO. 14-CV-0585-WQH (WVG)

ORDER

HAYES, Judge:

The matters before the Court are: (1) the Motion for Summary Judgment filed by Plaintiff Deborah Edwards (ECF No. 14); (2) the Cross-Motion for Summary Judgment filed by Defendant Carolyn Colvin (ECF No. 16); and (3) the Report and Recommendation issued by United States Magistrate Judge William V. Gallo (ECF No. 18).

I. Background

On December 22, 2010, Plaintiff filed an application for disability insurance benefits pursuant to the Social Security Act. (Administrative Record (“AR”) 161-67, ECF No. 10-5 at 2-8). On April 13, 2011, the Social Security Administration (“SSA”) denied Plaintiff’s initial application (AR 94-98, ECF No. 10-4 at 2-6), and on June 30, 2011, the application was denied on reconsideration (AR 100-103, ECF No. 10-4 at 8-11). On October 11, 2012, Plaintiff appeared at a hearing before Administrative Law Judge (“ALJ”) Robert Iafe in San Diego. (AR 20, ECF No. 10-2 at 21). On November 9, 2012, the ALJ issued a decision, finding that Plaintiff was not disabled at any time

1 between the alleged disability onset date and the date last insured. (AR 20-31, ECF No.
2 10-2 at 21-32). On December 21, 2012, Plaintiff filed a request for review of the ALJ's
3 decision. (AR 14-16, ECF No. 10-2 at 15-17). On January 16, 2014, the SSA's
4 Appeals Council denied review of the ALJ's decision. (AR 1-6, ECF No. 10-2 at 2-7).

5 On March 13, 2014, Plaintiff commenced this action by filing a Complaint in this
6 Court for judicial review pursuant to 42 U.S.C. section 405(g). (ECF No. 1). On
7 November 17, 2014, Plaintiff filed the Motion for Summary Judgment. (ECF No. 14).
8 On December 11, 2014, Defendant filed the Cross-Motion for Summary Judgment.
9 (ECF No. 16). On December 11, 2014, Defendant filed an opposition to the Motion for
10 Summary Judgment. (ECF No. 17).

11 On April 10, 2015, the Magistrate Judge issued the Report and Recommendation,
12 recommending that this Court deny Plaintiff's Motion for Summary Judgment and grant
13 Defendant's Cross-Motion for Summary Judgment. (ECF No. 18). The Magistrate
14 Judge found that the ALJ "properly considered and found not credible, Plaintiff's
15 statements concerning the intensity, persistence, and limiting effects of her symptoms."
16 *Id.* at 21. The Magistrate Judge further found that "[t]he ALJ supported this findings
17 by pointing to specific, clear and convincing evidence in the record that contradicted
18 Plaintiff's testimony." *Id.* at 25. The Magistrate Judge reasoned that the ALJ's adverse
19 credibility finding with respect to Plaintiff's allegations of subjective pain was
20 supported by the medical evidence, Plaintiff's daily activities, Plaintiff's failure to
21 follow a doctor's recommended treatment, and Plaintiff's prior inconsistent statements
22 regarding her pain. *Id.* at 22-25.

23 The Report and Recommendation concludes:

24 IT IS ORDERED that no later than May 11, 2015, any party to this
25 action may file written objections with the Court and serve a copy on all
26 parties. The document shall be captioned "Objections to Report and
27 Recommendation."

28 IT IS FURTHER ORDERED that any reply to the objections shall
be filed with the Court and served on all parties no later than May 26,
2015. The parties are advised that failure to file objections within the
specified time may waive the right to raise those objections on appeal of
the Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

1 *Id.* at 26. The docket reflects that no objections to the Report and Recommendation
2 have been filed to date.

3 **II. Discussion**


4 The duties of the district court in connection with a report and recommendation
5 of a magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28
6 U.S.C. § 636(b). The district judge must “make a de novo determination of those
7 portions of the report ... to which objection is made,” and “may accept, reject, or
8 modify, in whole or in part, the findings or recommendations made by the magistrate.”
9 28 U.S.C. § 636(b). The district court need not review de novo those portions of a
10 Report and Recommendation to which neither party objects. *See Wang v. Masaitis*, 416
11 F.3d 992, 1000 n.13 (9th Cir. 2005); *U.S. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
12 2003) (en banc) (“Neither the Constitution nor the [Federal Magistrates Act] requires
13 a district judge to review, de novo, findings and recommendations that the parties
14 themselves accept as correct.”).

15 The Court has reviewed the Report and Recommendation, the administrative
16 record, and the submissions of the parties. The Court finds that the Magistrate Judge
17 correctly recommended that Plaintiff’s Motion for Summary Judgment be denied and
18 Defendant’s Cross-Motion for Summary Judgment be granted. The Report and
19 Recommendation is Adopted in its entirety.

20 **III. Conclusion**

21 IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 18)
22 is ADOPTED in its entirety. Plaintiff’s Motion for Summary Judgment (ECF No. 14)
23 is DENIED. Defendant’s Cross Motion for Summary Judgment (ECF No. 16) is
24 GRANTED. The Clerk of the Court shall enter judgment for Defendant and against
25 Plaintiff.

26 DATED: June 9, 2015

27 
28 **WILLIAM Q. HAYES**
United States District Judge