UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GUILLERMINA FRANCISCO,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting Commissioner of Social Security

Defendant.

Case No. 14-cv-02905-BAS(WVG)

ORDER:

(1) ADOPTING REPORT AND RECOMMENDATION IN ITS ENTIRETY;

(2) GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT;

(3) DENYING DEFENDANT'S CROSS-MOTION FOR SUMMARY JUDGMENT; AND

(4) REMANDING FOR FURTHER PROCEEDINGS

(ECF Nos. 17, 14, 15)

On December 9, 2014, plaintiff Guillermina Francisco ("Plaintiff") filed a complaint against Carolyn W. Colvin ("Defendant"), Acting Commissioner of Social Security, seeking judicial review of Defendant's decision to deny Plaintiff disability insurance benefits and supplemental security income benefits under Title II and Title XVI of the Social Security Act, 42 U.S.C. § 301, *et seq*. The Court then referred this matter to United States Magistrate Judge William V. Gallo, who issued a Report and

Recommendation ("R&R") on February 8, 2016, recommending that Plaintiff's motion for summary judgment be granted, that Defendant's motion be denied, and that the matter be remanded for further administrative proceedings.

The time for filing objections to the R&R expired on February 23, 2016. (R&R at p. 29.) Both parties are represented by counsel, but to date, neither party has filed any objections.

I. ANALYSIS

The Court reviews *de novo* those portions of the R&R to which objections are made. 28 U.S.C. § 636(b)(1). The Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* But "[t]he statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo *if objection is made*, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (emphasis in original); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (concluding that where no objections were filed, the district court had no obligation to review the magistrate judge's report). "Neither the Constitution nor the statute requires a district judge to review, de novo, findings and recommendations that the parties themselves accept as correct." *Reyna-Tapia*, 328 F.3d at 1121. This rule of law is well-established within the Ninth Circuit and this district. *See Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005) ("Of course, de novo review of a R & R is only required when an objection is made to the R & R."); *Nelson v. Giurbino*, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopting report in its entirety without review because neither party filed objections to the report despite the opportunity to do so); *see also Nichols v. Logan*, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

In this case, the deadline for filing objections was February 23, 2016. However, no objections have been filed, and neither party has requested additional time to do so. Consequently, the Court may adopt the R&R on that basis alone. *See*

Reyna-Tapia, 328 F.3d at 1121. Nonetheless, having conducted a *de novo* review of the parties' cross-motions for summary judgment and the R&R, the Court concludes that Judge Gallo's reasoning is sound and accurate in recommending that this Court grant Plaintiff's motion for summary judgment, deny Defendant's cross-motion for summary judgment, and remand this action to the Administrative Law Judge for further proceedings. Therefore, the Court hereby approves and **ADOPTS IN ITS ENTIRETY** the R&R. *See* 28 U.S.C. § 636(b)(1).

II. CONCLUSION & ORDER

Having reviewed the R&R and there being no objections, the Court **ADOPTS IN ITS ENTIRETY** the R&R (ECF No. 17), **GRANTS** Plaintiff's motion for summary judgment (ECF No. 14), **DENIES** Defendant's cross-motion for summary judgment (ECF No. 15), and **REMANDS** this action for further proceedings consistent with this order and the R&R.

IT IS SO ORDERED.

DATED: March 10, 2016

Hon. Cynthia Bashant
United States District Judge