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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CARL ANDREW MARSHALL,
12 Plaintiff,
13 v.
14 CAROLYN W. COLVIN, Acting
15 Commissioner of Social Security,
16 Defendant.

Case No.: 15-CV-2436-W (JLB)

ORDER:

(1) ADOPTING REPORT AND RECOMMENDATION [DOC. 23];

(2) DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [DOC. 17]; AND

(3) GRANTING DEFENDANT'S CROSS-MOTION FOR SUMMARY JUDGMENT [DOC. 18]

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21 On October 28, 2015, Plaintiff Carl Andrew Marshall filed this action seeking
22 judicial review of the Social Security Commissioner's final decision denying his claim
23 for disability insurance benefits pursuant to the Social Security Act. (*See Compl.* [Doc.
24 1].) The matter was referred to the Honorable Jill L. Burkhardt, United States Magistrate
25 Judge, for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1). (*Nov. 19,*
26 *2015 Order* [Doc. 5].) Thereafter, the parties filed cross-motions for summary judgment.
27 (*Pl.'s Mot.* [Doc. 17]; *Def.'s Mot.* [Doc. 18].)
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1 On January 31, 2017, Judge Burkhardt issued a Report and Recommendation
2 (“R&R”) recommending that the Court deny Plaintiff’s motion for summary judgment
3 and grant Defendant’s cross-motion for summary judgment. (*R&R* [Doc. 23].) Judge
4 Burkhardt ordered that any objections be filed by February 14, 2017. (*Id.* [Doc. 23]
5 24:27–25:2.) No objections were filed. There has been no request for additional time to
6 object.

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

23 Accordingly, the Court accepts Judge Burkhardt’s recommendation and **ADOPTS**
24 the R&R [Doc. 23] in its entirety.

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1 For the reasons stated in the R&R, which is incorporated herein by reference, the
2 Court **DENIES** Plaintiff's motion for summary judgment [Doc. 17] and **GRANTS**
3 Defendant's cross-motion for summary judgment [Doc. 18].

4 Judgment is entered for Defendant. The clerk is directed to close the case.
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6 **IT IS SO ORDERED.**

7 Dated: February 23, 2017

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10 Hon. Thomas J. Whelan
11 United States District Judge
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