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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAYMOND J. DOUVILLE,
Plaintiff,
v.
CAROLYN W. COLVIN, Acting
Commissioner of Social Security,
Defendant.

Case No.: 3:15-cv-02946-BEN-JLB

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION;**

**(2) DENYING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT;**

**(3) GRANTING DEFENDANT'S
CROSS-MOTION FOR SUMMARY
JUDGMENT**

[Docket Nos. 18, 20, 22]

Plaintiff Raymond J. Douville filed this action seeking judicial review of the Social Security Commissioner's denial of his application for disability insurance benefits. (Docket No. 1.) Plaintiff filed a motion for summary judgment (docket no. 18), and Defendant filed a cross-motion for summary judgment and an opposition to Plaintiff's motion. (Docket No. 20.)

1 On January 13, 2017, Magistrate Judge Jill L. Burkhardt issued a thoughtful and
2 thorough Report and Recommendation, recommending that this Court deny Plaintiff's
3 motion for summary judgment and grant Defendant's cross-motion for summary
4 judgment. (Docket No. 22.) Plaintiff's Motion for Summary Judgment contends that the
5 Administrative Law Judge ("ALJ") committed reversible error for rejecting a portion of
6 the medical opinion of Dr. Phong T. Dao, D.O., and failing to adequately explain the
7 reason for the rejection. Magistrate Judge Burkhardt found that the ALJ did not err in
8 rejecting the disputed portion of Dr. Dao's opinion because it was contradictory to some
9 of Plaintiff's medical records and the opinions of two other physicians (one treating, one
10 non-treating). Magistrate Judge Burkhardt also found the ALJ sufficiently explained his
11 reasons for rejecting Dr. Dao's opinion. *See Howard ex. Rel. Wolff v. Barnhart*, 341 F.3d
12 1006, 1012 (9th Cir. 2003) (citing *Black v. Apfel*, 143 F.3d 383, 386 (8th Cir. 1998) ("[I]n
13 interpreting the evidence and developing the record, the ALJ does not need to discuss
14 'every piece of evidence.' ").

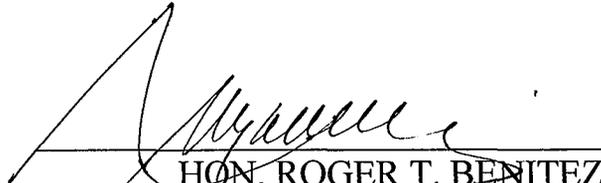
15 Objections to the Report and Recommendation were due by January 30, 2017.
16 (Docket No. 22.) Neither party has filed any objections. For the reasons that follow, the
17 Report and Recommendation is **ADOPTED**.

18 A district judge "may accept, reject, or modify the recommended disposition" of a
19 magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C.
20 § 636(b)(1). "[T]he district judge must determine de novo any part of the [report and
21 recommendation] that has been properly objected to." Fed. R. Civ. P. 72(b)(3).
22 However, "[t]he statute makes it clear that the district judge must review the magistrate
23 judge's findings and recommendations de novo *if objection is made*, but not otherwise."
24 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also*
25 *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). "Neither the Constitution nor
26 the statute requires a district judge to review, de novo, findings and recommendations
27 that the parties themselves accept as correct." *Reyna-Tapia*, 328 F.3d at 1121.

1 The Court need not conduct de novo review given the absence of objections.
2 However, the Court has conducted a de novo review and fully **ADOPTS** the Report and
3 Recommendation. Plaintiff's motion for summary judgment is **DENIED**. Defendant's
4 cross-motion for summary judgment is **GRANTED**.

5 **IT IS SO ORDERED.**

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7 Dated: February 22, 2017

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10 HON. ROGER T. BENITEZ
11 United States District Court Judge
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