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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JOHN WILLARD SNYDER,
12 Plaintiff,
13 v.
14 NANCY BERRYHILL, Acting
15 Commissioner of Social Security,
16 Defendant.

Case No.: 16-cv-0243-BEN-JLB

ORDER:

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

**(2) GRANTING IN PART and
DENYING IN PART PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT;**

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

**(4) REMANDING ACTION FOR
FURTHER ADMINISTRATIVE
PROCEEDINGS**

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23 Plaintiff John Willard Snyder filed this action seeking judicial review of the Social
24 Security Commissioner's¹ denial of his application for disability insurance benefits.
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28 ¹ When Plaintiff initiated this action, Carolyn Colvin was serving as the Acting
Commissioner of the Social Security Administration. Nancy Berryhill is now serving as

1 Plaintiff filed a motion for summary judgment, and Defendant filed a cross-motion for
2 summary judgment and an opposition to Plaintiff’s motion.

3 On April 17, 2017, Magistrate Judge Jill L. Burkhardt issued a thoughtful and
4 thorough Report and Recommendation, recommending that this Court grant in part and
5 deny in part Plaintiff’s motion for summary judgment and deny Defendant’s cross-
6 motion for summary judgment. Magistrate Judge Burkhardt found that the
7 Administrative Law Judge failed to articulate clear and convincing reasons for
8 discrediting Plaintiff’s testimony about the intensity, persistence, and limiting effects of
9 his symptoms. Magistrate Judge Burkhardt recommends remanding this action for
10 further administrative proceedings. Objections to the Report and Recommendation were
11 due May 2, 2017. Neither party has filed any objections.

12 A district judge “may accept, reject, or modify the recommended disposition” of a
13 magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C.
14 § 636(b)(1). “[T]he district judge must determine de novo any part of the [report and
15 recommendation] that has been properly objected to.” Fed. R. Civ. P. 72(b)(3).
16 However, “[t]he statute makes it clear that the district judge must review the magistrate
17 judge’s findings and recommendations de novo *if objection is made*, but not otherwise.”
18 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also*
19 *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). “Neither the Constitution nor
20 the statute requires a district judge to review, de novo, findings and recommendations
21 that the parties themselves accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121.


22 The Court has considered and agrees with the Report and Recommendation. The
23 Court **ADOPTS** the Report and Recommendation. (Docket No. 26). Plaintiff’s motion
24 for summary judgment is **GRANTED IN PART and DENIED IN PART**. (Docket No.
25 17). Defendant’s cross-motion for summary judgment is **DENIED**. (Docket No. 19).

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28 the Acting Commissioner. Pursuant to Federal Rule of Civil Procedure 25(d), Berryhill
is automatically substituted as a party.

1 This case is **REMANDED** for further proceedings consistent with the Report and
2 Recommendation.

3 **IT IS SO ORDERED.**

4 Dated: June 13, 2017

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6 Hon. Roger T. Benitez
7 United States District Judge
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