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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JOSEPH ALLEN MCCOLLOUGH, III,
12 Plaintiff,
13 v.
14 CAROLYN W. COLVIN, Acting
15 Commissioner of Social Security,
16 Defendant.

Case No.: 16-CV-1166 JLS (WVG)

**ORDER (1) ADOPTING R&R; (2)
DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT; AND
(3) GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

(ECF Nos. 15, 17, 19)

18 Presently before the Court is Magistrate Judge William V. Gallo's Report and
19 Recommendation ("R&R") recommending that the Court (1) deny Plaintiff's Motion for
20 Summary Judgment, and (2) grant Defendant's Cross Motion for Summary Judgment.
21 (ECF No. 19.) No party filed an objection or a reply to Judge Gallo's R&R. For the
22 following reasons, the Court (1) **ADOPTS** Judge Gallo's R&R in its entirety, (2) **DENIES**
23 Plaintiff's Motion for Summary Judgment, (ECF No. 15), and (3) **GRANTS** Defendant's
24 Cross Motion for Summary Judgment, (ECF No. 17).

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1 **BACKGROUND**

2 Judge Gallo’s R&R contains a thorough and accurate recitation of the factual and
3 procedural histories underlying the instant Motions for Summary Judgment. (*See* R&R 6–
4 20.¹) This Order incorporates by reference the background as set forth therein.

5 **LEGAL STANDARD**

6 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district
7 court’s duties regarding a magistrate judge’s report and recommendation. The district court
8 “shall make a de novo determination of those portions of the report . . . to which objection
9 is made,” and “may accept, reject, or modify, in whole or in part, the findings or
10 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(c); *see also United*
11 *States v. Raddatz*, 447 U.S. 667, 673–76 (1980). In the absence of a timely objection,
12 however, “the Court need only satisfy itself that there is no clear error on the face of the
13 record in order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s
14 note (citing *Campbell v. U.S. Dist. Court*, 510 F.2d 196, 206 (9th Cir. 1974)).

15 **ANALYSIS**

16 As discussed, neither Plaintiff nor Defendant filed an objection or a reply to Judge
17 Gallo’s R&R. And after review of the moving papers and Judge Gallo’s R&R, the Court
18 finds “that there is no clear error on the face of the record” and thus the Court may “accept
19 the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note (citing *Campbell*, 510
20 F.2d at 206). Additionally, the Court agrees with Judge Gallo’s conclusions that the
21 Administrative Law Judge’s (“ALJ”) determination was not erroneous because (1) the
22 decision was based on substantial evidence, (R&R 20–30), and (2) the ALJ did not err in
23 rejecting Plaintiff’s subjective testimony, (*id.* at 30–40). Accordingly, the Court **ADOPTS**
24 Judge Gallo’s R&R and thus **DENIES** Plaintiff’s Motion for Summary Judgment, and
25 **GRANTS** Defendant’s Cross Motion for Summary Judgment.

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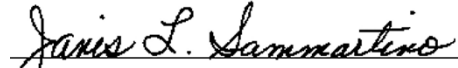
¹ Pin citations to docketed material refer to the CM/ECF numbers electronically stamped at the top of each page.

1 **CONCLUSION**

2 For the foregoing reasons, the Court (1) **ADOPTS** Judge Gallo’s R&R in its entirety,
3 (2) **DENIES** Plaintiff’s Motion for Summary Judgment, (ECF No. 15), and (3) **GRANTS**
4 Defendant’s Cross Motion for Summary Judgment, (ECF No. 17). This Order ends the
5 litigation in this matter. Accordingly, the Clerk of Court **SHALL** close the file.

6 **IT IS SO ORDERED.**

7 Dated: August 2, 2017

8 
9 Hon. Janis L. Sammartino
United States District Judge

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