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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 MICHAEL SEAN BROZOVIC,
12 Plaintiff,
13 v.
14 NANCY A. BERRYHILL, Acting
15 Commissioner of Social Security,¹
16 Defendant.

Case No.: 3:17-cv-01316-BEN-AGS

ORDER:

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

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

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

[Docket Nos. 16, 17, 23]

22 Plaintiff Michael Sean Brozovic filed this action seeking judicial review of the
23 Social Security Commissioner's denial of his application for disability insurance benefits.
24 (Docket No. 1.) Plaintiff filed a motion for summary judgment (Docket No. 16), and
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27 ¹ Acting Commissioner of Social Security Nancy A. Berryhill is substituted for former
28 Acting Commissioner Carolyn C. Colvin pursuant to Rule 25(d) of the Federal Rules of
Civil Procedure.

1 Defendant filed a cross-motion for summary judgment and an opposition to Plaintiff's
2 motion. (Docket Nos. 17, 18.) Plaintiff did not file a response to Defendant's cross-
3 motion.

4 On July 26, 2017, Magistrate Judge Andrew G. Schopler issued a thoughtful and
5 thorough Report and Recommendation, recommending that this Court deny Plaintiff's
6 motion for summary judgment and grant Defendant's cross-motion for summary
7 judgment. (Docket No. 23.) Plaintiff's Motion for Summary Judgment contends that the
8 Administrative Law Judge ("ALJ") committed reversible error in rejecting his symptom
9 testimony and failing to adequately explain the reason for the rejection. Magistrate Judge
10 Schopler found that that the ALJ sufficiently explained why Plaintiff's testimony was not
11 credible. Specifically, Magistrate Judge Schopler found that, of the six reasons the ALJ
12 relied on to support the findings on Plaintiff's credibility, only one is invalid, and the
13 remaining five reasons are specific, clear, convincing, and supported by substantial
14 evidence in the record. *See Carmickle v. Comm'r, Soc. Sec. Admin.*, 533 F.3d 1155, 1162
15 (9th Cir. 2008) ("So long as there remains substantial evidence supporting the ALJ's
16 conclusions on credibility and the error does not negate the validity of the ALJ's ultimate
17 credibility conclusion, such is deemed harmless and does not warrant reversal.").

18 Objections to the Report and Recommendation were due by August 9, 2017.
19 (Docket No. 23.) Neither party has filed any objections. For the reasons that follow, the
20 Report and Recommendation is **ADOPTED**.

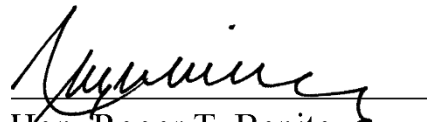
21 A district judge "may accept, reject, or modify the recommended disposition" of a
22 magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. §
23 636(b)(1). "[T]he district judge must determine de novo any part of the [report and
24 recommendation] that has been properly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

1 the statute requires a district judge to review, de novo, findings and recommendations
2 that the parties themselves accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121.

3 The Court need not conduct de novo review given the absence of objections.
4 Nevertheless, the Court has considered the parties’ arguments and fully **ADOPTS** the
5 Report and Recommendation. Plaintiff’s motion for summary judgment is **DENIED**.
6 Defendant’s cross-motion for summary judgment is **GRANTED**.

7 **IT IS SO ORDERED.**

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9 Dated: August 16, 2017

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11 Hon. Roger T. Benitez
12 United States District Judge
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