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

Case No.: 3:16-cv-01505-BEN-JLB

ORDER:

**(1) GRANTING REPORT AND
RECOMMENDATION (ECF No. 27);**

**(2) GRANTING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT (ECF No. 16);**

**(3) DENYING DEFENDANT'S
CROSS MOTION FOR SUMMARY
JUDGMENT (ECF No. 20); and**

**(4) REMANDING CASE FOR
FURTHER PROCEEDINGS**

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23 Plaintiff Rosalina Crespo Agundes filed this action seeking judicial review of the
24 Social Security Commissioner's¹ denial of her application for disability insurance
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28 ¹ When Plaintiff initiated this action, Carolyn W. Colvin was serving as the Acting
Commissioner of the Social Security Administration. Nancy A. Berryhill is now serving

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

3 On August 14, 2017, Magistrate Judge Andrew G. Schopler issued a thoughtful
4 and thorough Report and Recommendation, recommending that this Court grant
5 Plaintiff's motion, deny Defendant's motion, and remand the case so the Administrative
6 Law Judge ("ALJ") can make specific findings on Plaintiff's language capabilities and
7 the impact they have on her ability to work. *See Pinto v. Massanari*, 249 F.3d 840, 847
8 (9th Cir. 2001) (holding that when an ALJ "rel[ies] on a job description in the Dictionary
9 of Titles," the ALJ must "definitively explain" the impact of the claimant's illiteracy "on
10 her ability to find and perform a similar job"). Objections to the Report and
11 Recommendation were due August 28, 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.

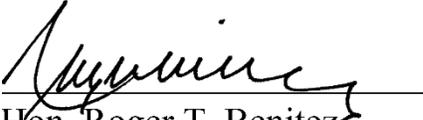
22 The Court has considered and agrees with the Report and Recommendation. The
23 Court **ADOPTS** the Report and Recommendation. (ECF No. 27). Plaintiff's motion for
24 summary judgment is **GRANTED**. (ECF No. 16). Defendant's cross-motion for
25 summary judgment is **DENIED**. (ECF No. 20). The case is **REMANDED** so the ALJ

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

1 can make specific findings regarding Plaintiff's language capabilities and the impact they
2 have on her ability to work.

3 **IT IS SO ORDERED.**

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5 Dated: August 29, 2017

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