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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

WILLIAM T. LENZ,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

Case No.: 16-CV-1755-JLS (PCL)

**ORDER ADOPTING REPORT AND
RECOMMENDATION**
(ECF No. 18)

Presently before the Court is Magistrate Judge Peter C. Lewis’s Report and Recommendation, (“R&R”, ECF No. 18). Judge Lewis recommends the Court grant Plaintiff’s Motion for Summary Judgment, deny Defendant’s Motion for Summary Judgment, and remand the matter to the Social Security Administration for further proceedings. Having reviewed the Parties’ motions, Judge Lewis’s R&R, and the underlying Administrative Record, the Court **ADOPTS** Judge Lewis’s Report and Recommendation in its entirety.

LEGAL STANDARD

Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district court’s duties in connection with a magistrate judge’s report and recommendation. The district court must “make a de novo determination of those portion of the report to which

1 objection is made,” and “may accept, reject, or modify, in whole or in part, the findings or
2 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also United*
3 *States v. Raddatz*, 447 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874 F.2d 614,
4 617 (9th Cir. 1989). However, in the absence of timely objection, the Court “need only
5 satisfy itself that there is no clear error on the face of the record in order to accept the
6 recommendation.” Fed. R. Civ. P. 72 advisory committee’s note to 1983 amendment
7 (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United*
8 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (“[T]he district judge must
9 review the magistrate judge’s findings and recommendations de novo *if objection is made*,
10 but not otherwise.”).

11 ANALYSIS

12 In the present case, neither party has timely filed objections to Magistrate Judge
13 Lewis’s R&R. (*See* R&R 31 (objections due by October 31, 2017).) Having reviewed the
14 R&R, the Court finds that it is thorough, well-reasoned, and contains no clear error.

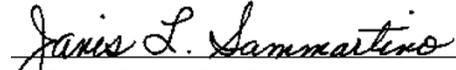
15 In this matter, the Administrative Law Judge (“ALJ”) concluded Plaintiff is not
16 disabled because he has the residual functional capacity to perform “light work” subject to
17 certain limitations. (R&R 3.) In his R&R, Judge Lewis determined the ALJ erred in this
18 decision. The Court agrees the ALJ’s determination failed to address various professional
19 opinions of treating and examining physicians regarding the type and severity of issues
20 troubling Plaintiff’s left leg and spine. (*Id.* at 22–23, 25.) The ALJ’s determination did
21 not address various doctors’ opinions that contradict the ALJ’s conclusion, let alone give
22 “specific and legitimate” reasons for rejecting the opinions. (*Id.* at 28 (quoting *Marsh v.*
23 *Colvin*, 792 F.3d 1170, 1172–73 (9th Cir. 2015).) The failure to do constitutes error.
24 Furthermore, the Court agrees remanding for further proceedings is appropriate so that the
25 Commissioner may evaluate Plaintiff’s disability in light of all of the medical records
26 before it. (*Id.* at 30.)

27 Accordingly, the Court hereby: (1) **ADOPTS** Magistrate Judge Lewis’s Report and
28 Recommendation; (2) **GRANTS** Plaintiff’s Motion for Summary Judgment and **DENIES**

1 Defendant's Cross-Motion for Summary Judgment; and (3) **REMANDS** the case to the
2 Social Security Administration for further proceedings. Because this concludes the
3 litigation in this matter, the Clerk **SHALL** close the file.

4 **IT IS SO ORDERED.**

5 Dated: November 20, 2017


6 Hon. Janis L. Sammartino
7 United States District Judge

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