

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BRIAN ALLEN SCHALIK, Plaintiff, v. NANCY A. BERRYHILL, Acting Commissioner of Social Security Administration, Defendant.
--

Case No.: 16-cv-2059 W (KSC)

ORDER:
(1) ADOPTING REPORT AND RECOMMENDATION [DOC. 18],
(2) DENYING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT [DOC. 14], AND
(3) GRANTING DEFENDANT’S CROSS-MOTION FOR SUMMARY JUDGMENT [DOC. 15]

On August 16, 2016, Plaintiff Brian Allen Schalik filed this lawsuit seeking judicial review of the Social Security Commissioner’s final decision denying his claim for disability insurance benefits. The matter was referred to the Honorable Karen S. Crawford, United States Magistrate Judge, for a report and recommendation under 28 U.S.C. § 636(b)(1)(B). Thereafter, the parties filed cross-motions for summary judgment.

1 On August 7, 2017, Judge Crawford issued a Report and Recommendation
2 (“Report”), recommending the Court deny Plaintiff’s motion for summary judgment and
3 grant Defendant’s cross-motion for summary judgment. (*Report* [Doc. 18] 14:12–15.)
4 The Report also ordered any objections filed within fourteen (14) days after being served
5 with a copy of the Report. (*Id.* at 14:18–20.) To date, no objection has been filed, nor
6 has there been a request for additional time in which to file an objection.

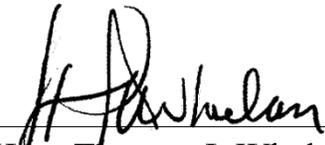
7 A district court’s duties concerning a magistrate judge’s report and
8 recommendation and a respondent’s objections thereto are set forth in Rule 72(b) of the
9 Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are
10 filed, the district court is not required to review the magistrate judge’s report and
11 recommendation. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)
12 (holding that 28 U.S.C. § 636(b)(1)(C) “makes it clear that the district judge must review
13 the magistrate judge’s finding and recommendations de novo *if objection is made*, but not
14 otherwise”) (emphasis in original); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D.
15 Ariz. 2003) (concluding that where no objections were filed, the District Court had no
16 obligation to review the magistrate judge’s report). This rule of law is well-established
17 within both the Ninth Circuit and this district. *See Wang v. Masaitis*, 416 F.3d 992, 1000
18 n.13 (9th Cir. 2005) (“Of course, de novo review of a R & R is *only* required when an
19 objection is made to the R & R.”) (emphasis added) (citing *Reyna-Tapia*, 328 F.3d at
20 1121); *Nelson v. Giurbino*, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.)
21 (adopting Report without review because neither party filed objections despite having the
22 opportunity to do so, and holding that, “accordingly, the Court will adopt the Report and
23 Recommendation in its entirety.”); *see also Nichols v. Logan*, 355 F. Supp. 2d 1155, 1157
24 (S.D. Cal. 2004) (Benitez, J.).

25 The Court therefore accepts Judge Crawford’s recommendation, and **ADOPTS** the
26 Report [Doc. 18] in its entirety. For the reasons stated in the Report, which is
27 incorporated herein by reference, the Court **DENIES** Plaintiff’s motion for summary
28

1 judgment [Doc. 14] and **GRANTS** Defendant's cross-motion for summary judgment
2 [Doc. 15]. The Clerk shall close the District Court case file.

3 **IT IS SO ORDERED.**

4 Dated: September 26, 2017

5 
6 _____
7 Hon. Thomas J. Whelan
8 United States District Judge

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28