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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY *asm* DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GWEYNN MARIE BROWN,
Plaintiff,
v.
NANCY BERRYHILL, Acting
Commissioner of Social Security,
Defendant.

Case No.: 16-cv-2873-BEN-WVG

ORDER:

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

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

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

Plaintiff Gweynn Marie Brown filed this action seeking judicial review of the Social Security Commissioner's¹ denial of her application for disability insurance benefits and supplemental security income benefits. Plaintiff filed a motion for summary

¹ When Plaintiff initiated this action, Carolyn Colvin was serving as the Acting Commissioner of the Social Security Administration. Nancy Berryhill is now serving as the Acting Commissioner. Pursuant to Federal Rule of Civil Procedure 25(d), Berryhill is automatically substituted as a party.

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

3 On July 12, 2017, the Honorable William V. Gallo issued a thoughtful and
4 thorough Report and Recommendation, recommending that this Court deny Plaintiff's
5 motion for summary judgment and grant Defendant's cross-motion for summary
6 judgment. Magistrate Judge Gallo found that the Administrative Law Judge ("ALJ")
7 provided specific reasons for his conclusion of Plaintiff's non-disability, and that the
8 record supports the ALJ's findings. With respect to Plaintiff's credibility and claims of
9 greater disability, Judge Gallo found that the ALJ specifically identified which portions
10 of Plaintiff's testimony were not credible and provided clear and convincing reasons for
11 discounting that testimony. Judge Gallo explained that the ALJ properly evaluated,
12 among other things, Plaintiff's participation in daily activities, her conservative treatment
13 for the severe symptoms alleged, and the inconsistency between the objective evidence
14 and the severe symptoms alleged. Objections to the Report and Recommendation were
15 due August 3, 2017. Neither party has filed any objections.

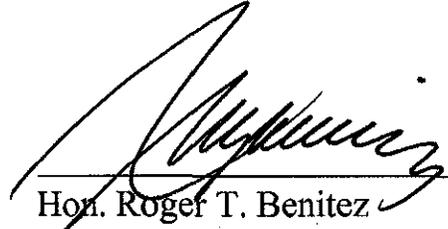
16 A district judge "may accept, reject, or modify the recommended disposition" of a
17 magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C.
18 § 636(b)(1). "[T]he district judge must determine de novo any part of the [report and
19 recommendation] that has been properly objected to." Fed. R. Civ. P. 72(b)(3).
20 However, "[t]he statute makes it clear that the district judge must review the magistrate
21 judge's findings and recommendations de novo *if objection is made*, but not otherwise."
22 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also*
23 *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). "Neither the Constitution nor
24 the statute requires a district judge to review, de novo, findings and recommendations
25 that the parties themselves accept as correct." *Reyna-Tapia*, 328 F.3d at 1121.

26 The Court has considered and agrees with the Report and Recommendation. The
27 Court **ADOPTS** the Report and Recommendation. (Docket No. 19). Plaintiff's motion
28 for summary judgment is **DENIED**. (Docket No. 17). Defendant's cross-motion for

1 summary judgment is **GRANTED**. (Docket No. 18). **IT IS THEREFORE ORDERED**
2 that the final decision of the Commissioner of Social Security is affirmed. The Clerk
3 shall enter judgment accordingly and terminate the case.

4 **IT IS SO ORDERED.**

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6 Dated: August 28, 2017


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