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

Case No.: 17-CV-497-JLS (BLM)

**ORDER ADOPTING REPORT AND  
RECOMMENDATION; DENYING  
DEFENDANT’S MOTION FOR  
SUMMARY JUDGMENT;  
GRANTING PLAINTIFF’S MOTION  
FOR SUMMARY JUDGMENT**

(ECF Nos. 15, 17, 19)

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18 Presently before the Court is Plaintiff’s Motion for Summary Judgment and  
19 Defendant’s Motion for Summary Judgment, (ECF Nos. 15, 17). Magistrate Judge Barbara  
20 Major has issued a Report and Recommendation, (“R&R,” ECF No. 19), recommending  
21 that Plaintiff’s Motion for Summary Judgment be granted, Defendant’s Cross-Motion for  
22 Summary Judgment be denied, and that Judgment be entered reversing the decision of the  
23 Administrative Law Judge and remanding this matter for further administrative  
24 proceedings. Having reviewed the Parties’ motions, Judge Major’s R&R, and the  
25 underlying Administrative Record, the Court **ADOPTS** Judge Major’s Report and  
26 Recommendation in its entirety.

27 **BACKGROUND**

28 Judge Major’s R&R contains a thorough and accurate recitation of the factual and

1 procedural histories underlying the instant Motions for Summary Judgment. (*See* R&R 2–  
2 10.)<sup>1</sup> This Order incorporates by reference the background as set forth therein.

### 3 **LEGAL STANDARD**

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

### 17 **ANALYSIS**

18 In this present case, neither party has filed objections to Magistrate Judge Major’s  
19 R&R. (*See* R&R 25 (objections due by June 6, 2018).) Having reviewed the R&R, the  
20 Court finds that it is thorough, well-reasoned, and contains no clear error.

21 In this matter, the Administrative Law Judge (“ALJ”) determined that Plaintiff was  
22 not disabled as defined in the Social Security Act. (R&R 7 (citing Administrative Record,  
23 (“AR”), ECF No. 12, at 24–41.) The ALJ determined that Plaintiff could work as a rental  
24 clerk, ticket seller, or order clerk, and therefore was not disabled. (*Id.* (citing AR 34–35).)  
25 The ALJ determined that Plaintiff’s testimony was not credible. Judge Major found “that  
26 the ALJ failed to identify the specific statements Plaintiff made that the ALJ decided were  
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28 <sup>1</sup> Pin citations refer to the CM/ECF page numbers electronically stamped at the top of each page.

1 not credible, and thus does not provide the necessary information for meaningful judicial  
2 review.” (*Id.* at 12.) Judge Major found the ALJ “erred by failing to identify the testimony  
3 he found not credible” so therefore, the ALJ’s conclusions are not supported by substantial  
4 evidence. (*Id.* at 14.)

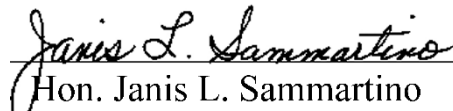
5 Further, Judge Major found that even if the ALJ had “adequately specified the  
6 testimony he found not believable,” the ALJ’s proffered reasons for negating Plaintiff’s  
7 testimony fail to meet the clear and convincing standard. (*Id.*) Judge Major analyzed the  
8 reasons provided by the ALJ in finding Plaintiff less than fully credible. (*Id.* at 14–24.)  
9 Judge Major concluded that none of the reasons “constitute a clear and convincing basis”  
10 for the ALJ’s ultimate determination. Judge Major therefore recommends reversing the  
11 decision of the ALJ.

12 The Court finds no clear error in Judge Major’s findings and recommendations.  
13 Further, the Court agrees remanding for further administrative proceedings is appropriate  
14 because additional proceedings could remedy the defects in the ALJ’s decision and  
15 enhance the administrative record. (*Id.* at 25.)

16 Accordingly, the Court hereby: (1) **ADOPTS** Magistrate Judge Major’s Report and  
17 Recommendation; (2) **GRANTS** Plaintiff’s Motion for Summary Judgment and **DENIES**  
18 Defendant’s Cross-Motion for Summary Judgment; and (3) **REMANDS** the case to the  
19 Social Security Administration for further proceedings. Because this concludes the  
20 litigation in this matter, the Clerk **SHALL** close the file.

21 **IT IS SO ORDERED.**

22 Dated: July 9, 2018

23   
24 Hon. Janis L. Sammartino  
25 United States District Judge  
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