

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 KEITH ALVAREZ,

12 Plaintiff,

13 v.

14 NANCY A. BERRYHILL, Acting  
15 Commissioner of the Social Security  
Administration,

16 Defendant.  
17  
18  
19  
20  
21

Case No.: 3:17-cv-2236-AJB-NLS

**ORDER:**

**(1) ADOPTING THE REPORT  
AND RECOMMENDATION (Doc.  
No. 31);**

**(2) DENYING PLAINTIFF’S  
MOTION FOR SUMMARY  
JUDGMENT (Doc. No. 26); AND**

**(3) GRANTING DEFENDANT’S  
CROSS MOTION FOR SUMMARY  
JUDGMENT (Doc. No. 27.)**

22 Presently before the Court are (1) Plaintiff Keith Alvarez’s (“Plaintiff”) motion for  
23 summary judgment; and (2) Defendant Nancy A. Berryhill’s (“Defendant”) cross motion  
24 for summary judgment. (Doc. Nos. 26–27.) The Court referred this matter to Magistrate  
25 Judge Nita L. Stormes for a Report and Recommendation (the “R&R”), which was issued  
26 on August 6, 2019. (Doc. No. 31.) The R&R recommends that the Court: (1) deny  
27 Plaintiff’s motion for summary judgment; and (2) grant Defendant’s cross motion for  
28 summary judgment. (*Id.* at 20–21.) The parties were instructed to file written objections to


1 the R&R by August 21, 2019, and a reply to the objections no later than August 30, 2019.  
2 (*Id.* at 21.)

3 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district  
4 judge’s duties in connection with a magistrate judge’s R&R. The district judge must “make  
5 a de novo determination of those portions of the report . . . to which objection is made[,]”  
6 and “may accept, reject, or modify, in whole or in part, the findings or recommendations  
7 made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *United States v. Remsing*, 874 F.2d  
8 614, 617 (9th Cir. 1989). However, in the absence of objection(s), the Court “need only  
9 satisfy itself that there is no clear error on the face of the record in order to accept the  
10 recommendation.” Fed. R. Civ. P. 72(b) advisory committee note to the 1983 amendment;  
11 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

12 Neither party has filed objections to the R&R. Thus, having reviewed the R&R, the  
13 Court finds it thorough, well-reasoned, and contains no clear error. Accordingly, the Court  
14 hereby: (1) **ADOPTS** the R&R; (2) **DENIES** Plaintiff’s motion for summary judgment;  
15 and (3) **GRANTS** Defendant’s cross motion for summary judgment.

16  
17 **IT IS SO ORDERED.**

18  
19 Dated: September 23, 2019

  
\_\_\_\_\_  
Hon. Anthony J. Battaglia  
United States District Judge