

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

HOA DINH NGUYEN,

Plaintiff,

v.

**MICHAEL ASTRUE, Commissioner,
Social Security Administration,**

Defendant.

No. 3:11-cv-00360-JE

OPINION AND ORDER

MOSMAN, J.,

On May 3, 2012, Magistrate Judge Jelderks issued Findings and Recommendation (“F&R”) [16] in the above-captioned case recommending that I reverse in part the Commissioner’s decision and remand this action for an award of benefits. Neither party filed objections.

STANDARD OF REVIEW

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

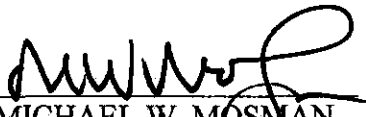
is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge Jelderks's recommendation and I ADOPT his F&R [16] as my own opinion.

IT IS SO ORDERED.

DATED this 22 day of May, 2012.


MICHAEL W. MOSMAN
United States District Court