

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

**JEFFREY HAROLD SOWDEN,**

Plaintiff,

v.

**NANCY A. BERRYHILL,**  
Acting Commissioner of Social Security,

Defendant.

No. 3:16-cv-02310-CL

OPINION AND ORDER

**MOSMAN, J.,**

On October 19, 2017, Magistrate Judge Mark D. Clarke issued his Findings and Recommendation (F&R) [20], recommending that the decision of the Commissioner should be reversed and remanded for further administrative proceedings. The Commissioner filed no response.

**DISCUSSION**

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 regarding 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, de novo or under 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 F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Clarke's recommendation and I ADOPT the F&R [20] as my own opinion. The decision of the Commissioner is REVERSED AND REMANDED.

IT IS SO ORDERED.

DATED this 28 day of November, 2017.

*/s/ Michael W. Mosman*  
MICHAEL W. MOSMAN  
Chief United States District Judge