

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CHRISTOPHER COPE,

Plaintiff,

v.

CAROLYN W. COLVIN,
Commissioner of Social Security,

Defendant.

Case No. 6:13-cv-0599-JE

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge John Jelderks issued Findings and Recommendation in this case on March 30, 2015. Dkt. 23. Judge Jelderks recommended that the decision of the Commissioner of Social Security (“Commissioner”) be reversed and the case remanded for an award of benefits.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(C). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” Id.; Fed. R. Civ. P. 72(b)(3).

The Commissioner timely filed an objection. Dkt. 25. The Commissioner argues the Judge Jelderks' erred in finding that the ALJ improperly discredited the testimony of examining physician Dr. Davis Stenstrom and erred in remanding for an award of benefits instead of for further proceedings. The Court has reviewed de novo those portions of Judge Jelderk's Findings and Recommendation to which the Commissioner has objected, as well as the Commissioner's objections, Plaintiff's response, and the underlying briefing and record in this case. The Court agrees with Judge Jelderks' reasoning that the ALJ improperly discredited the opinion of Dr. Stenstrom. The Court also agrees with Judge Jelderks' reasoning that the record is fully developed, a remand for further proceedings would serve no useful purpose, and a remand for an award of benefits is appropriate. The Court therefore ADOPTS those portions of the Findings and Recommendation.

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. See *Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] sua sponte . . . under a de novo or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

For those portions of Judge Jelderks' Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Judge Jelderks' Findings and Recommendation, Dkt. 23.

IT IS SO ORDERED.

DATED this 30th day of April, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge