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

Hisrael Sanchez,  
  
Plaintiff,  
  
v.  
  
Arizona Department of Corrections, et al.,  
  
Defendants.

No. CV-14-01302-PHX-DJH  
**ORDER**

Pending before the Court is a Report and Recommendation of United States Magistrate Judge Eileen S. Willett (“R & R”) (Doc. 32), recommending that this action be dismissed without prejudice as to Defendant Cardenas.

**I. Background**

As the R & R explains, *pro se* Plaintiff Sanchez has not been able to serve process upon Defendant Cardenas because he is no longer with the Arizona Department of Corrections. Thereafter, despite being ordered “to show cause why Defendant Cardenas should not be dismissed without prejudice from this action for failure to serve pursuant to Rule 4(m) of the Federal Rules of Civil Procedure and Rule 16.2(b)(2)(B)(ii) of the Local Rules of Civil Procedure[,]” Plaintiff did not respond. R & R (Doc. 2 at 2:6-10). In accordance with these Rules and taking into account the relevant factors, Judge Willett recommended dismissal without prejudice as to Defendant Cardenas because Plaintiff Sanchez did not serve this particular Defendant. (*Id.* at 3:7-9).

1           The R & R explicitly advised the parties that, pursuant to Fed.R.Civ.P. 72, they  
2 “shall have fourteen days from the date of service of a copy of this recommendation  
3 within which to file specific written objections with the Court.” R & R (Doc. 32 at 3:13-  
4 15). The R & R also explicitly advised the parties that “[f]ailure to timely file objections  
5 to any factual determinations of the Magistrate Judge may be considered a waiver of a  
6 party’s right to appellate review of the findings of fact in an order or judgment entered  
7 pursuant to a Magistrate Judge’s recommendation.” (*Id.* at 3:16-19) (citations omitted).  
8 None of the parties have filed objections to that R & R, and the 14 day time frame for so  
9 doing has long since passed.

## 10 **II. Analysis**

11           When reviewing an R & R issued by a Magistrate Judge, this court “may accept,  
12 reject, or modify, in whole or in part, the findings or recommendations made by the  
13 magistrate judge.” 28 U.S.C. § 636(b)(1). “Of course, de novo review of a R & R is only  
14 required when an objection is made to the R & R[.]” *Wang v. Masaitis*, 416 F.3d 992,  
15 1000 n. 13 (9<sup>th</sup> Cir. 2005) (citing *United States v. Reyna–Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup>  
16 Cir. 2003) (*en banc*)). That is because “[n]either the Constitution nor the [Federal  
17 Magistrates Act] requires a district judge to review, de novo, findings and  
18 recommendations that the parties themselves accept as correct.” *Reyna–Tapia*, 328 F.3d  
19 at 1121 (citations omitted). Indeed, construing the Federal Magistrates Act, the Supreme  
20 Court has found that that “statute does not on its face require any review at all, by either  
21 the district court or the court of appeals, of any issue that is not the subject of an  
22 objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

23           Consistent with the foregoing authority, the Court has not conducted a de novo  
24 review of the pending R & R because the parties did not file any objections thereto.  
25 Having reviewed the Magistrate Judge's R & R, and no objections having been filed by  
26 any party thereto, the Court hereby incorporates and adopts the Magistrate Judge's Report  
27 and Recommendation in its entirety (Doc. 32).

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Accordingly,

**IT IS ORDERED** that Magistrate Judge Willett’s R&R (Doc. 32) is **accepted and adopted** as the Order of this Court; and

**IT IS FURTHER ORDERED** that pursuant to Fed.R.Civ.P. 4(m), this action is **dismissed without prejudice to renew** as to Defendant Cardenas.

Dated this 27th day of October, 2015.



Honorable Diane J. Humetewa  
United States District Judge