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**NOT FOR PUBLICATION**

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

9 Arthur F. Gerth,

10 Plaintiff,

11 v.

12 Unknown Foster, et al.,

13 Defendants.  
14

No. CV-16-02786-PHX-DJH

**ORDER**

15 This matter is before the Court on the Report and Recommendation (“R&R”) (Doc. 8) of United States Magistrate Judge Eileen S. Willett, filed on March 14, 2017. As more fully set forth therein, pursuant to Fed.R.Civ.P. 41(b), Judge Willet recommends dismissal of this action without prejudice for failure to prosecute given that in violation of LRCiv 83.3(d), Plaintiff failed to notify the Court of his change of address.

20 In so recommending, Judge Willet explicitly advised the parties that they “shall have fourteen days from the date of service of a copy of this [R&R] within which to file specific written objections with the Court.” (Doc. 8 at 3:23-25). Judge Willet further explicitly advised that “[f]ailure to file timely objections to the any factual determinations of the Magistrate Judge may be considered a waiver of a party’s right to appellate review of the findings of fact in an order or judgment entered pursuant to the” R&R. (*Id.* at 3:26-4:2) (citation omitted).

27 In accordance with the foregoing, the parties had until March 31, 2017 by which to  
28 timely file objections to the R&R. The parties did not do so. Absent any timely

1 objections, the Court is not required to review the findings and recommendations in the  
2 R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1989) (The relevant provision of the  
3 Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(C), “does not on its face require any  
4 review at all . . . of any issue that is not the subject of an objection.”); *United States v.*  
5 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (same); Fed.R.Civ.P. 72(b)(3) (“The  
6 district judge must determine de novo any part of the magistrate judge’s disposition that  
7 has been properly objected to.”). Nonetheless, the Court has reviewed the R&R and  
8 agrees with its findings and recommendation. The Court will, therefore, accept the R&R  
9 in its entirety. *See* 28 U.S.C. § 636(b)(1)(C) (“A judge of the court may accept, reject, or  
10 modify, in whole or in part, the findings or recommendations made by the magistrate  
11 judge.”); Fed.R.Civ.P. 72(b)(3) (same).

12 Accordingly,

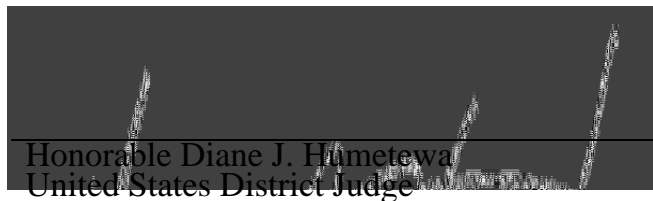
13 **IT IS ORDERED** that Magistrate Judge Willet’s R&R (Doc. 8) is **accepted** and  
14 **adopted** as an Order of this Court.

15 **IT IS FURTHER ORDERED** that pursuant to Fed.R.Civ.P. 41(b), this action is  
16 **dismissed without prejudice**.

17 **IT IS FINALLY ORDERED** that the Clerk of Court shall terminate this action  
18 and enter judgment accordingly.

19 **Dated** this 10th day of April, 2017.

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Honorable Diane J. Humetewa  
United States District Judge