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

Jerry Oneal,  
Plaintiff,  
v.  
Jason Flint, et al.,  
Defendants.

No. CV-17-00354-TUC-RCC (EJM)  
**ORDER**

Pending before the Court is a Report and Recommendation (“R & R”) prepared by Magistrate Judge Eric J. Markovich (Doc. 9). There, Magistrate Judge Markovich recommended that this Court grant Plaintiff’s Motion to Proceed In Forma Pauperis (Doc. 2), dismiss the complaint without prejudice (Doc. 1), grant Plaintiff’s leave to file an amended complaint and deny plaintiff’s motion for ruling (doc. 8). Plaintiff has also filed two additional motions.

**Discussion**

The duties of the district court in connection with a R & R are set forth in Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may “accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1).

Where the parties object to an R & R, “[a] judge of the [district] court shall make a de novo determination of those portions of the [R & R] to which objection is made.” 28

1 U.S.C. § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). When no objection  
2 is filed, the district court need not review the R & R de novo. *Wang v. Masaitis*, 416 F.3d  
3 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121-22  
4 (9th Cir. 2003) (en banc). The Court will not disturb a magistrate judge’s order unless his  
5 factual findings are clearly erroneous or his legal conclusions are contrary to law. 28  
6 U.S.C. § 636(b)(1)(A). “[T]he magistrate judge’s decision...is entitled to great deference  
7 by the district court.” *United States v. Abonce-Barrera*, 257 F.3d 959, 969 (9th Cir.  
8 2001). A failure to raise an objection waives all objections to the magistrate judge’s  
9 findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998). A failure to object  
10 to a Magistrate Judge’s conclusion “is a factor to be weighed in considering the propriety  
11 of finding waiver of an issue on appeal.” *Id.* (internal citations omitted).

12 Here, the parties have not objected to the R & R, which relieves the Court of its  
13 obligation to review. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.  
14 2003); *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1) ] does not ...  
15 require any review at all ... of any issue that is not the subject of an objection.”);  
16 Fed.R.Civ.P. 72(b)(3) (“The district judge must determine de novo any part of the  
17 magistrate judge's disposition that has been properly objected to.”). This Court considers  
18 the R & R to be thorough and well-reasoned. After a thorough and de novo review of the  
19 record, the Court accepts and adopts Magistrate Judge Eric Markovich’s R & R.

20 Accordingly,

21 **IT IS HEREBY ORDERED** that Magistrate Judge Markovich’s Report and  
22 Recommendation is **ACCEPTED** and **ADOPTED** as the findings of fact and  
23 conclusions of law by this Court. Doc. 9.

24 **IT IS FURTHER ORDERED** that Plaintiff’s Motion to Proceed In Forma  
25 Pauperis is **granted**. Doc. 2.

26 **IT IS FURTHER ORDERED** that Plaintiff’s complaint is dismissed without  
27 prejudice. Doc. 1.


28 **IT IS FURTHER ORDERED** that Plaintiff is granted leave to file an amended

1 complaint. Plaintiff shall have 30 days from the date of this order to file a complaint or  
2 the case will be dismissed with prejudice.

3 **IT IS FURTHER ORDERED** that Plaintiff's motions for ruling are denied.  
4 Docs. 8, 10 and 11.

5 Dated this 11th day of September, 2017.

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Honorable Raner C. Collins  
Chief United States District Judge