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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HERBERT L. BARTON, JR.,

Plaintiff,

v.

FREMONT STREET EXPERIENCE,

Defendant.

2:11-CV-2098 JCM (RJJ)

ORDER

Presently before the court is Magistrate Judge Johnston’s report and recommendation dismissing plaintiff Herman L. Barton, Jr’s case with prejudice. (Doc. # 17). No objections to the report and recommendation have been filed.¹

This 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). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a de novo determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

¹ The court notes that the report and recommendation was returned to the court as “undeliverable” when mailed to plaintiff. (Doc. # 18). The report and recommendation was sent to the only address the court has on file for plaintiff. This appears to be an ongoing issue in this case. The court has already warned plaintiff that failure to comply with court orders, timely prosecute this case, and provide the court with a current address may result in sanctions, including dismissal of this case. (Doc. # 8).

**James C. Mahan
U.S. District Judge**

1 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate
2 judge's report and recommendation where no objections have been filed. *See United States v.*
3 *Reyna-Tapia*, 328 F.3d 1114 (9th Cir.2003) (disregarding the standard of review employed by the
4 district court when reviewing a report and recommendation to which no objections were made); *see*
5 *also Schmidt v. Johnstone*, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's
6 decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any
7 issue that is not the subject of an objection."). Thus, if there is no objection to a magistrate judge's
8 recommendation, then this court may accept the recommendation without review. *See e.g.*,
9 *Johnstone*, 263 F.Supp.2d at 1226 (accepting, without review, a magistrate judge's recommendation
10 to which no objection was filed).

11 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
12 whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation
13 and plaintiff's failure to comply with court rules in keeping the court apprised of his current address,
14 this court finds good cause to adopt the magistrate's findings in full.

15 Accordingly,

16 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and
17 recommendation of Magistrate Judge Johnston dismissing plaintiff Herman L. Barton, Jr's case with
18 prejudice be (doc. # 17), and the same hereby is, ADOPTED in its entirety.

19 IT IS FURTHER ORDERED that the above-captioned case be, and the same hereby is,
20 DISMISSED with prejudice.

21 DATED November 13, 2012.

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23 
24 UNITED STATES DISTRICT JUDGE