

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

HARRY BATISTE,

Plaintiff.

v.

JUDGE MICHELLE LEAVITT,

Defendant.

Case No. 2:17-cv-00217-MMD-NJK

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
NANCY J. KOPPE

Defendant

14 Before the Court is Magistrate Judge Nancy J. Koppe's Report and
15 Recommendation ("R&R" or "Recommendation) (ECF No. 3), regarding Plaintiff's request
16 to proceed *in forma pauperis* and proposed complaint (ECF Nos. 1, 1-1). Plaintiff had until
17 February 10, 2017 to file his objection. (ECF No. 3.) To date, no objection has been filed.

18 This Court “may accept, reject, or modify, in whole or in part, the findings or
19 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
20 timely objects to a magistrate judge’s report and recommendation, then the court is
21 required to “make a *de novo* determination of those portions of the [report and
22 recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails
23 to object, however, the court is not required to conduct “any review at all . . . of any issue
24 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed,
25 the Ninth Circuit has recognized that a district court is not required to review a magistrate
26 judge’s report and recommendation where no objections have been filed. See *United*
27 *States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review
28 employed by the district court when reviewing a report and recommendation to which no

1 objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D.
2 Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that
3 district courts are not required to review "any issue that is not the subject of an objection").
4 Thus, if there is no objection to a magistrate judge's recommendation, then the court may
5 accept the recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226
6 (accepting, without review, a magistrate judge's recommendation to which no objection
7 was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review in order
9 to determine whether to adopt the R&R. Upon review of the R&R and the proposed
10 complaint in this case, the Court agrees with the R&R and will adopt it in full.

11 It is hereby ordered that the Magistrate Judge's Report and Recommendation (ECF
12 No. 3) is accepted and adopted.

13 It is further ordered that the Clerk detach and file Plaintiff's complaint (ECF No. 1-
14 1).

15 It is further ordered that this action is dismissed with prejudice.

16 The Clerk is directed to close this case.

17 DATED THIS 27th day of April 2017.



18
19
20 MIRANDA M. DU
21 UNITED STATES DISTRICT JUDGE
22
23
24
25
26
27
28