

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

LAURA NOLAND,

Plaintiff(s),

v.

SOCIAL SECURITY DISABILITY,

Defendant(s).

Case No. 2:17-CV-2743 JCM (VCF)

ORDER

Presently before the court is Magistrate Judge Ferenbach’s report and recommendation (R&R) to dismiss plaintiff Laura Noland’s complaint with prejudice. (ECF No. 6). Plaintiff has not filed a response, and the time for doing so has since passed.

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). If a party fails to object to a magistrate judge’s report and recommendation, 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). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See *United States v. Reyna–Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna–Tapia* as adopting the view that district courts are not required to review “any issue that is not the subject of an objection.”).

Plaintiff did not file a timely objection to the report and recommendation. However, as plaintiff filed an amended complaint, this court finds it appropriate to engage in a de novo review

1 to determine whether to adopt the recommendation of the magistrate judge. See 28 U.S.C. §  
2 636(b)(1).

3 An individual “may obtain a review of” a “final decision of the Commissioner of Social  
4 Security” in “a civil action commenced within sixty days after the mailing . . . of notice of such  
5 decision.” 42 U.S.C. § 405(g).

6 On November 3, 2017, Judge Ferenbach dismissed plaintiff’s complaint with leave to  
7 amend, noting that “Plaintiff’s complaint fails to state (1) there was a final decision by the  
8 Commissioner and (2) this action was brought within the appropriate time.” (ECF No. 3).  
9 Plaintiff’s amended complaint states that the Social Security Appeals Panel denied her request for  
10 review on December 22, 2015. (ECF No. 9). Plaintiff brought this action almost two years later,  
11 on October 31, 2017. (ECF No. 1). Therefore, plaintiff’s complaint fails to state a claim upon  
12 which relief can be granted. See 42 U.S.C. § 405(g). The court will dismiss plaintiff’s complaint  
13 with prejudice.

14 Accordingly,

15 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge  
16 Ferenbach’s R&R (ECF No. 6) be, and the same hereby is, ADOPTED in its entirety.

17 The clerk shall enter judgment accordingly and close the case.

18 DATED April 12, 2018.

19   
20 \_\_\_\_\_  
21 UNITED STATES DISTRICT JUDGE  
22  
23  
24  
25  
26  
27  
28