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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WILLIAM CATO SELLS, JR.,) 3:08-CV-170-BES-RAM
Plaintiff,)
v.) **ORDER**
E.K. MCDANIEL, *et al.*,)
Defendants.)

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#84) ("Recommendation") entered on August 6, 2009. This action was referred to U.S. Magistrate Judge Robert A. McQuaid pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. After a thorough review, the Magistrate Judge recommends that this Court grant in part and deny in part Defendants' Motion for Summary Judgment (#46). No objection to the Report and Recommendation has been filed.

I. DISCUSSION

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). Further, under 28 U.S.C. § 636(b)(1), if a party makes a timely objection to the magistrate judge's recommendation, then this Court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made."¹ Nevertheless, the statute does not "require[] some lesser review by [this Court] when no objections are filed." Thomas v. Arn, 474

¹ For an objection to be timely, a party must serve and file it within 10 days after being served with the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1)(C).

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1 U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not required to conduct “any
2 review at all . . . of any issue that is not the subject of an objection.” Id. at 149. Similarly, the
3 Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s
4 report and recommendation where no objections have been filed. See United States v. Reyna-
5 Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the
6 district court when reviewing a report and recommendation to which no objections were made);
7 see also Schmidt v. Johnstone, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth
8 Circuit’s decision in Reyna-Tapia as adopting the view that district courts are not required to
9 review “any issue that is not the subject of an objection.”). Thus, if there is no objection to a
10 magistrate judge’s recommendation, then this Court may accept the recommendation without
11 review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting, without review, a magistrate
12 judge’s recommendation to which no objection was filed).

13 In this case, defendants have not filed an objection to the Magistrate Judge’s Report
14 and Recommendation. Although no objection was filed, this Court has reviewed the Report
15 and Recommendation (#84), and accepts it. Accordingly,

16 IT IS HEREBY ORDERED that Defendants’ Motion for Summary Judgment (#46) is
17 GRANTED in part and DENIED in part as follows:

- 18 1. Counts I and III through XVI should be DISMISSED;
- 19 2. The federal claims against Defendants in their official capacities for money
20 damages in Count II should be DISMISSED; and
- 21 3. The motion for summary judgment on Count II of the complaint should be
22 DENIED.

23 The Clerk of the Court shall enter judgment accordingly.

24 IT IS SO ORDERED.

25 DATED: This 23 day of October, 2009.

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Robert C. Jones
UNITED STATES DISTRICT JUDGE