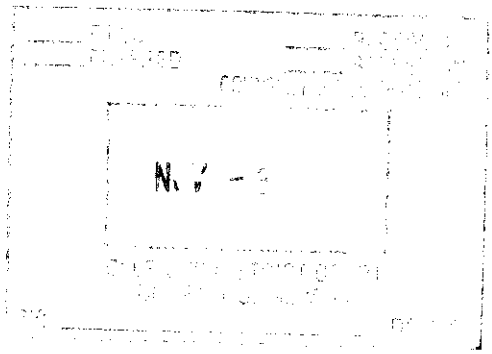

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MICHELLE MELLEMA,

Plaintiff,

v.

RICHARD GAMMICK, *et al.*,

Defendants.

3:09-CV-331-RCJ(RAM)

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#14) ("Recommendation") entered on September 23, 2009. This action was referred to U.S. Magistrate Robert A. McQuaid, Jr., 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 enter an order dismissing this action with prejudice. 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,

[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).

474 U.S. 140, 149–50 (1985). Instead, under the statute, this Court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." Id. at 149. Similarly, 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."). Thus, if there is no objection to a magistrate judge's recommendation, then this Court may accept the recommendation without review. See e.g., Johnstone, 263 F.Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to which no objection was filed).

In this case, defendant has not filed an objection to the Magistrate Judge's Report and Recommendation. Although no objection was filed, this Court has reviewed the Report and Recommendation (#14), and accepts it. Accordingly,

IT IS HEREBY ORDERED that this action is DISMISSED WITH PREJUDICE. The Clerk of the Court shall enter judgment according.

IT IS SO ORDERED.

DATED: This 2 day of November, 2009.

Robert C. Jones
UNITED STATES DISTRICT JUDGE