FILED
ENTERED
RECEIVED
SERVED ON
COUNSEL/PARTIES OF RECORD
DEC 29 2010
CLERK US DISTRICT COURT
DISTRICT OF NEVADA
BY: DEPUTY

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CHERYL A. MANDELL,

Plaintiff,

v.

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS,

Defendant.

3:10-cv-0216-RCJ-VPC

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#5) ("Recommendation") entered on September 22, 2010, in which the Magistrate Judge recommends that this Court deny Plaintiff's application to proceed *in forma pauperis* (#1) and to dismiss this action without prejudice. No objection to the Report and Recommendation has been filed.

-VPC Mandell v. Church of Jesus Christ of Latter Day Saints Doc. 7

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).

Dockets.Justia.com

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, there have been no objections filed to the Magistrate Judge's Report and Recommendation. Although no objection was filed, this Court has reviewed the Report and Recommendation (#3) and accepts it. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's application to proceed *in forma pauperis* (#1) is denied. IT IS FURTHER ORDERED that this action is dismissed without prejudice.

IT IS SO ORDERED.

DATED: This 29th day of December.

UNITED STATES DISTRICT JUDGE