

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**

NARVIEZ V. ALEXANDER,)	
)	
Plaintiff,)	3:10-CV-429-RCJ (WGC)
v.)	
)	
STATE OF NEVADA, <i>et al.</i> ,)	ORDER
)	
Defendants.)	
_____)	

Before the Court is the Report and Recommendation of the United States Magistrate Judge (#55) (“Recommendation”) entered March 12, 2012, in which the Magistrate Judge recommends that this Court grant in part and deny in part Defendants’ Motion to Dismiss (#48).

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 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

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).

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

9 In this case, there have been no objections filed to the Magistrate Judge's Report and
10 Recommendation. Although no objection was filed, this Court has reviewed the Report and
11 Recommendation (#55) and accepts it. Accordingly,

12 IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (#48) is GRANTED IN PART
13 AND DENIED IN PART, as follows:

14 (1) Defendants' Motion to Dismiss Count VI, on the ground that Plaintiff failed to exhaust
15 administrative remedies is DENIED;

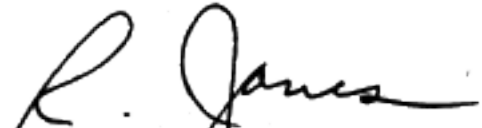
16 (2) Defendants' Motion to Dismiss Defendants Bannister, Hartman, Morrow, Baca, Neven,
17 Cox, and Skolnik in Count VII is GRANTED, WITH LEAVE TO AMEND;

18 (3) Defendants' Motion to Dismiss Defendant Graham is GRANTED, WITHOUT LEAVE
19 TO AMEND.

20 (4) In sum, Count VI may proceed as alleged. Count VII will proceed against Defendant
21 Clark, and Plaintiff has leave to amend Count VII with respect to Defendants Bannister, Hartman,
22 Morrow, Baca, Neven, Cox, and Skolnik.

23 IT IS SO ORDERED.

24 DATED: This 14TH day of April, 2012.

25
26
27 
28 ROBERT C. JONES
Chief District Court Judge