

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

\* \* \*

THERESA WENZEL,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,

Defendant.

Case No. 3:13-cv-00074-MMD-WGC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE WILLIAM G. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (ECF No. 39) (“R&R”) relating to Plaintiff Theresa Wenzel’s motion for attorney’s fees (ECF No. 36). The parties had until December 21, 2018, to object to the R&R. No objections to the R&R have been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a de novo determination of those portions of the [report and recommendation] to which objection is made.” *Id.* Where a party fails to object, 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


1 objection”). Thus, if there is no objection to a magistrate judge’s recommendation, then  
2 the court may accept the recommendation without review. See, e.g., id. at 1226  
3 (accepting, without review, a magistrate judge’s recommendation to which no objection  
4 was filed).

5 Nevertheless, the Court finds it appropriate to engage in a de novo review to  
6 determine whether to adopt Magistrate Judge Cobb’s Recommendation. The Magistrate  
7 Judge recommended granting the motion for attorney’s fees under 42 U.S.C. § 406(b)  
8 and awarding Wenzel’s counsel \$13,000 in fees with an offset to Wenzel of \$3,700 for  
9 the fees awarded under the EAJA. (ECF No. 39 at 5.) Upon reviewing the  
10 Recommendation and underlying briefs, this Court finds good cause to adopt the  
11 Magistrate Judge’s R&R in full.

12 It is therefore ordered, adjudged, and decreed that the Report and  
13 Recommendation of Magistrate Judge William G. Cobb (ECF No. 33) is accepted and  
14 adopted in its entirety.

15 It is further ordered that Plaintiff’s motion for attorney’s fees (ECF No. 36) is  
16 granted. Plaintiff’s counsel is awarded attorney’s fees in the amount of \$13,000 with an  
17 offset to Wenzel of \$3,700 for the fees awarded under the EAJA. Accordingly, Plaintiff’s  
18 counsel is directed to reimburse Plaintiff the amount of \$3,700.00.

19 DATED THIS 3<sup>rd</sup> day of January 2019.

20   
21 \_\_\_\_\_  
22 MIRANDA M. DU  
23 UNITED STATES DISTRICT JUDGE  
24  
25  
26  
27  
28