UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

RYAN FOSMO,

Plaintiff,

v.

COUNTY OF ELKO, et al.,

Defendants.

Case No. 3:14-cv-00468-MMD-VPC

ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke ("R&R") (dkt. no. 47) relating to plaintiff's failure to comply with the Court's minute order following the hearing on October 1, 2015 (dkt. no. 43). On October 1, 2015, Magistrate Judge Cooke entered a minute order giving Plaintiff until November 2, 2015, to do one of the following: (1) File a substitution of counsel; (2) File a notice advising the Court that he intends to represent himself; or (3) File a notice advising the Court whether he intends to proceed with the litigation of this action. (Dkt. no. 43.) To date, Plaintiff has not complied with the Court's order, and Magistrate Judge Cooke submitted her R&R. Plaintiff had until December 12, 2015, to object to the R&R. No objection to the R&R has 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." 28 U.S.C. § 636(b)(1). 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 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then the 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).

Nevertheless, this Court finds it appropriate to engage in a *de novo* review to determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge recommended that, based upon Plaintiff's failure to file any notice with the Court or attempt to contact this Court in any manner, this case be dismissed without prejudice. Upon reviewing the R&R and underlying briefs showing Plaintiff's failure to prosecute and abandoning this litigation, this Court finds good cause to adopt the Magistrate Judge's R&R in full.

It is therefore ordered, adjudged and decreed that the Report and Recommendation of Magistrate Judge Valerie P. Cooke (dkt. no. 47) is accepted and adopted in its entirety.

It is ordered that this case be dismissed without prejudice.

The Clerk is directed to close this case.

DATED THIS 15th day of December 2015.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE