

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

XUE BAO CHEN ,

Plaintiff,

v.

JAMES T. RUSSELL, *et al.*,

Defendants.

Case No. 3:15-cv-00260-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") relating to plaintiff's motion for leave to proceed *in forma pauperis* (ECF No. 7) and *pro se* complaint. (ECF No. 14.) Plaintiff had until November 18, 2016, to object to the R&R. (*Id.*) To date, no objection 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.

1 Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that
2 district courts are not required to review "any issue that is not the subject of an objection.").
3 Thus, if there is no objection to a magistrate judge's recommendation, then the court may
4 accept the recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at
5 1226 (accepting, without review, a magistrate judge's recommendation to which no
6 objection was filed).

7 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
8 determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge
9 recommended that Plaintiff's motion for leave to proceed *in forma pauperis* be denied
10 because the application is insufficient, although Plaintiff paid the full filing fee. The
11 Magistrate Judge further recommends dismissal of Plaintiff's complaint without prejudice.
12 Upon reviewing the R&R and the filings in this case, this Court finds good cause to adopt
13 the Magistrate Judge's R&R in full.

14 It is therefore ordered, adjudged and decreed that the Report and
15 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 14) is accepted and
16 adopted in its entirety.

17 It is ordered that Plaintiff's motion for leave to proceed *in forma pauperis* (ECF No.
18 7) is denied.

19 It is further ordered the Plaintiff's request for issuance of summons (ECF No. 12)
20 is denied.

21 It is further ordered that this action is dismissed without prejudice.

22 The Clerk is directed to close this case.

23 DATED THIS 12th day of January 2017.

24
25 
26 _____
27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE