1

2

3

4

5

6

7

8

9

11

12

13 14

15

16

17

18

19

20

212223

24

2526

27

28

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

* * *

JOHN STEVEN OLAUSEN,

٧.

GENE YUP, et al.,

Defendants.

Plaintiff.

Case No. 3:15-cv-00539-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. 58) ("R&R" or "Recommendation") relating to Defendant Gene Yup's Motion for Summary Judgment ("Motion") (ECF No. 44). Plaintiff had until September 27, 2017, to object to the R&R. To date, 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 Cobb's Recommendation. The Magistrate Judge found that Plaintiff has failed to exhaust his administrative remedies on his single Eighth Amendment claim of deliberate indifference to a medical need (ECF No. 58). For this reason, the Magistrate Judge recommends granting summary judgment in favor of Defendant Dr. Yup. Upon reviewing the Recommendation and the briefs relating to Defendant's Motion, the Court agrees with the Magistrate Judge and therefore adopts the R&R in full.

It is therefore ordered, adjudged and decreed that the Report and Recommendation of Magistrate Judge William G. Cobb (ECF No. 58) is accepted and adopted in its entirety.

It is ordered that Defendant Gene Yup's Motion for Summary Judgment (ECF No. 44) is granted.

It is further order that the Clerk of Court enter judgment accordingly and close this case.

DATED THIS 23rd day of October 2017.

MIRANDA M. DU

UNITED STATES DISTRICT JUDGE