

1

2

3

4

5

6

## UNITED STATES DISTRICT COURT

7

## DISTRICT OF NEVADA

8

\* \* \*

9

JAMES C. KELLEY,

Case No. 3:16-cv-00041-MMD-WGC

10

Plaintiff,

ORDER REGARDING REPORT AND  
RECOMMENDATION OF  
MAGISTRATE JUDGE  
WILLIAM G. COBB

11

v.

12

DR. KAREN GEDNEY, *et. al.*,

13

Defendants.

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (ECF No. 42), recommending the granting of Defendant John Peery's Motion for Summary Judgment (ECF No. 33). Plaintiff had until June 19, 2017, to file an objection. (ECF No. 42.) To date, no objection to the R&R has been filed<sup>1</sup>.

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

---

<sup>1</sup>Plaintiff did not respond to Peery's motion, and had suggested that Peery is not a proper defendant. (ECF No. 35.)

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

10 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
11 determine whether to adopt Magistrate Judge Cobb's R&R. Having reviewed Defendant  
12 Peery's Motion for Summary Judgment and the R&R, the Court agrees with the  
13 Magistrate Judge's recommendation and will adopt it.

14 It is therefore ordered, adjudged and decreed that the Report and  
15 Recommendation of Magistrate Judge William G. Cobb (ECF No. 42) is accepted and  
16 adopted in full.

17 It is further ordered that Defendant Peery's Motion for Summary Judgment (ECF  
18 No. 33) is granted.

19 DATED THIS 14<sup>th</sup> day of August 2017.

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