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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DANIEL V. MERRY,

Plaintiff,

v.

BRIAN SANDOVAL, et al.,

Defendants.

Case No. 3:16-cv-00164-MMD-WGC

ORDER

Plaintiff Daniel V. Merry, who is in the custody of the Nevada Department of Corrections (“NDOC”), brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge William G. Cobb (ECF No. 73), recommending that the Court grant Defendants’ motion for summary judgment (“Motion”) (ECF No. 58). Plaintiff had until June 24, 2019, to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R and will grant Defendants’ Motion.

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

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


8 While Plaintiff has failed to object to Judge Cobb's recommendation to grant
9 summary judgment in favor of Defendants, the Court will conduct a de novo review to
10 determine whether to adopt the R&R. Judge Cobb thoroughly examined the medical
11 records that Defendants submitted and found that Defendants have demonstrated they
12 were not deliberately indifferent to Plaintiff's serious medical need to support Plaintiffs
13 claims for violation of the Eighth Amendment. (ECF No. 73 at 9-18.) Having reviewed the
14 R&R and Defendants' motion (which Plaintiff did not oppose), the Court agrees with
15 Judge Cobb.

16 It is therefore ordered that Judge Cobb's Report and Recommendation (ECF No.
17 73) is adopted in full.

18 It is further ordered that Defendants' motion for summary judgment (ECF No. 58)
19 is granted.

20 The Clerk of Court is directed to enter judgment in accordance with this order and
21 close this case.

22 DATED THIS 28th day of June 2019.

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