



1 at 7-8.) On May 31, 2017, Plaintiff filed a motion for leave to file a second amended  
2 complaint (“SAC”). (ECF No. 30.) Defendants conceded that Counts I through V are  
3 similar to the counts that survived screening, indicated they would await screening of  
4 Counts VI and VII, and argued that Count VIII is barred based on immunity. (ECF No.  
5 32.) The Magistrate Judge recommends granting Plaintiff’s motion to file a SAC but  
6 allowed Plaintiff to proceed on only Counts I through VII. (ECF No. 35.)

### 7 **III. DISCUSSION**

8 This Court “may accept, reject, or modify, in whole or in part, the findings or  
9 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party  
10 timely objects to a magistrate judge’s report and recommendation, then the court is  
11 required to “make a *de novo* determination of those portions of the [report and  
12 recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails  
13 to object, however, the court is not required to conduct “any review at all . . . of any issue  
14 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).  
15 Indeed, the Ninth Circuit has recognized that a district court is not required to review a  
16 magistrate judge’s report and recommendation where no objections have been filed. *See*  
17 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard  
18 of review employed by the district court when reviewing a report and recommendation to  
19 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
20 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna–Tapia* as adopting  
21 the view that district courts are not required to review “any issue that is not the subject of  
22 an objection.”). Thus, if there is no objection to a magistrate judge’s recommendation,  
23 then the court may accept the recommendation without review. *See, e.g., Johnstone*,  
24 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge’s  
25 recommendation to which no objection was filed).

26 In light of plaintiff’s objections, the Court has engaged in a *de novo* review to  
27 determine whether to adopt Magistrate Judge Cooke’s recommendations. The  
28 Magistrate Judge properly declined Defendants’ request for the Court to screen Counts

1 VI and VII. The Magistrate Judge also properly found that Count VIII should be  
2 dismissed because the claim is asserted against two defendants—Justice Court Judge  
3 Karen R. Stephens and district attorney James Shirley—who are entitled to immunity from  
4 suit and against a defendant—public defender Steven W. Cochran who represented  
5 Plaintiff in his criminal case—who is not deemed a person acting under color of state law  
6 under § 1983. (ECF No. 35 at 3-4.) The Court agrees with the Magistrate Judge and  
7 overrules Plaintiff's Objection.

8 **IV. CONCLUSION**

9 It is therefore ordered, adjudged and decreed that the Report and  
10 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 35) is accepted and  
11 adopted in its entirety.

12 It is further ordered that the Clerk file the second amended complaint (ECF Nos.  
13 30, 30-1).

14 It is further ordered that Counts I, II, III, IV, V, VI and VII of the second amended  
15 complaint will proceed.

16 It is further ordered that Count VIII is dismissed with prejudice.

17 DATED THIS 28<sup>th</sup> day of December 2017.

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20 MIRANDA M. DU  
21 UNITED STATES DISTRICT JUDGE  
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