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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOHN HAROLD McCULLOUGH,

Plaintiff,

v.

RICHARD MACHADO, *et al*,

Defendants.

Case No. 3:16-cv-00225-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 (ECF No. 63) (“R&R” or “Recommendation”) relating to Defendants’ partial motion to dismiss second amended civil rights complaint (“Motion”) (ECF No. 48). Plaintiff filed a notice of non-opposition to Defendants’ Motion. (ECF No. 59.) Judge Cooke recommends granting Defendants’ Motion. (ECF No. 63.) Plaintiff had until August 13, 2018 to object. (*Id.*) 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*

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
5 the view that district courts are not required to review “any issue that is not the subject of
6 an objection.”). Thus, if there is no objection to a magistrate judge’s recommendation,
7 then the court may accept the recommendation without review. *See, e.g., Johnstone*,
8 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge’s
9 recommendation to which no objection was filed).

10 Because Plaintiff does not oppose Defendants’ Motion and fails to object to the
11 R&R, the Court will adopt the R&R and grant Defendants’ Motion.

12 It is therefore ordered, adjudged and decreed that the Report and
13 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 63) is accepted and
14 adopted in its entirety.

15 It is further ordered that Defendants’ motion for partial dismissal (ECF No. 48) is
16 granted. Claims against the following individuals are dismissed: District Attorney Bryce
17 Shields, County Commissioners Robert McDougal, Carol Shank, Larry Rackley, and
18 Deputy Sheriff Jerry Reid. Further, Count VII—based upon the Prison Rape Elimination
19 Act—is dismissed.

20 DATED THIS 27th day of August 2018.



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22 MIRANDA M. DU
23 UNITED STATES DISTRICT JUDGE
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