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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JAMES R. MCDANIEL, JR.,

Plaintiff,

v.

ELY STATE PRISON, *et al.*,

Defendants.

Case No. 3:16-cv-00259-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 (“R&R”) recommending dismissal of this action with prejudice for Plaintiff’s failure to prosecute his case or comply with a court order. (ECF No. 40.) Plaintiff had until April 11, 2018, to object. (*Id.* at 4.) To date, no objection has been filed. For the following reasons, the Court accepts and adopts the R&R.

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

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

9           Nevertheless, the Court finds it appropriate to engage in a de novo review to  
10 determine whether to adopt the Magistrate Judge’s R&R. The Magistrate Judge  
11 recommended dismissing Plaintiff’s action with prejudice because Plaintiff failed to comply  
12 with the Court’s order requiring Plaintiff to file a notice of intent to prosecute the action as  
13 well as a response to Defendants’ motion for summary judgment. (See ECF No. 40 at 3.)  
14 The Court had previously advised Plaintiff that failure to file a notice of intent and a  
15 response would result in a recommendation that his claim be dismissed with prejudice.  
16 (ECF No. 39.) Plaintiff has not filed any documents in this case since May 4, 2017, even  
17 though the Magistrate Judge’s R&R was issued on March 28, 2018, and Defendants’  
18 motion for summary judgment was filed on November 16, 2017. (ECF Nos. 23, 32, 40.)  
19 Accordingly, the Court finds good cause to adopt the Magistrate Judge’s R&R in full.

20           It is therefore ordered, adjudged and decreed that the Report and Recommendation  
21 of Magistrate Judge William G. Cobb (ECF No. 40) is accepted and adopted in its entirety.

22           It is further ordered that this action is dismissed with prejudice.

23           It is further ordered that Defendants’ motion to seal (ECF No. 33) is granted  
24 because Defendants have demonstrated compelling reasons to seal Plaintiff’s medical  
25 records.

26           It is further ordered that Defendants’ motion for summary judgment (ECF No. 32)  
27 is denied as moot.

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DATED THIS 8<sup>th</sup> day of June 2018.



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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE