

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DWAYNE HART,

**Plaintiff**

ISIDRO BACA, *et al.*,

## Defendants

Case No. 3:16-cv-00274-MMD-VPC

ORDER ADOPTING AND ACCEPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
VALEBIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke's ("R&R") (ECF No. 20), recommending that the Court grant Defendants' motion for summary judgment ("Motion") (ECF No. 17). Plaintiff had until January 24, 2018, to file an objection. (ECF No. 20.) 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

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<sup>1</sup>Plaintiff did not respond to the Motion despite the Magistrate Judge's order, issued *sua sponte*, extending the time for Plaintiff to respond. (ECF No. 19.)

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

11 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
12 determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge  
13 found that Defendants have demonstrated that Plaintiff failed to exhaust his  
14 administrative remedies. Upon reviewing the R&R (ECF No. 20) and the Defendants'  
15 Motion (ECF No. 17), this Court finds good cause to adopt the Magistrate Judge's R&R  
16 in full.

17 It is therefore ordered, adjudged and decreed that the Report and  
18 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 20) is accepted and  
19 adopted in its entirety. Defendants' motion for summary judgment (ECF No. 17) is  
20 granted.

21 It is further ordered that the Clerk enter judgment and close this case.

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

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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE