

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MARTIN KARI MILLER,

**Plaintiff:**

CONNIE STEINHEIMER, *et al.*,

## Defendants

Case No. 3:16-cv-00317-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. 5) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* (ECF No. 1) and civil rights complaint (ECF No. 1-1). Plaintiff had until November 8, 2017, to file an objection. (ECF No. 5.) 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 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

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

9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
10 determine whether to adopt Magistrate Judge Cook's R&R. The Magistrate Judge  
11 recommends dismissing this action without prejudice based upon Plaintiff's failure to  
12 timely submit a completed application to proceed *in forma pauperis*. (ECF No. 5.) Upon  
13 reviewing the R&R and proposed complaint, this Court finds good cause to accept and  
14 adopt the Magistrate Judge's R&R in full.

15 It is therefore ordered, adjudged and decreed that the Report and  
16 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 5) is accepted and  
17 adopted in its entirety.

18 It is ordered that plaintiff's application to proceed *in form pauperis* (ECF No. 1) is  
19 denied.

20 It is further ordered that the Clerk detach and file the complaint (ECF No. 1-1).

21 It is further ordered that the complaint is dismissed without prejudice.

22 The Clerk is directed to close this case.

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

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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE