

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JAMES GARST,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

Case No. 3:16-cv-00495-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. 17) (“R&R”) relating to plaintiffs’ motion for reversal and/or remand (ECF No. 9), and defendant’s cross-motion to affirm (ECF No. 15). The Court allowed plaintiff until August 15, 2017, to file an objection. (See ECF No. 17.) 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*

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

10 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
11 determine whether to adopt Magistrate Judge Cooke’s R&R. Upon reviewing the R&R and
12 underlying briefs, this Court finds good cause to accept and adopt the Magistrate Judge’s
13 R&R in full.

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

16 It is further ordered that plaintiff’s motion for remand or reversal (ECF No. 9) is
17 denied.

18 It is further ordered that defendant’s cross-motion to affirm (ECF No. 15) is granted.

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

20 DATED THIS 31st day of August 2017.



21
22

MIRANDA M. DU
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28