

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GABRIEL BOURNE,

Plaintiff

MICHAEL EWALD, *et al.*

Defendants

| Case No. 3:16-cv-00499-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"). Plaintiff had November 8, 2017, to file an objection. 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 of review employed by the district court when reviewing a report and recommendation to which no

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

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
9 determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge
10 recommends dismissal based upon Plaintiff's failure to comply with the Court's previous
11 order dismissing the complaint with leave to amend. Upon reviewing the R&R and the
12 filings in this case, 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. 5) is accepted and adopted in its entirety.

16 It is further ordered this action is dismissed with prejudice based on Plaintiff's failure
17 to file an amended complaint in compliance with this court's order (ECF No. 3).

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

19 DATED THIS 8th day of January 2018.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE