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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JAMELLE L. RUSSELL,

Case No. 3:17-cv-00181-MMD-WGC

Plaintiff,

ORDER

v.

WASHOE COUNTY
DETENTION FACILITY, et al.,

Defendants.

Plaintiff Jamelle L. Russell asserts claims under 42 U.S.C. § 1983 arising from alleged excessive use of force against Plaintiff while he was in the custody of the Washoe County Detention Facility. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate William G. Cobb (ECF No. 32), recommending that the Court deny Defendants’ motion for summary judgment (“Motion”) (ECF No. 25). Defendants had until July 11, 2019 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R and will deny Defendants’ Motion.

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.” *Id.* 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

1 judge's report and recommendation where no objections have been filed. See United
2 States v. Reyna-Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of
3 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
6 the view that district courts are not required to review "any issue that is not the subject
7 of an objection."). Thus, if there is no objection to a magistrate judge's recommendation,
8 then the Court may accept the recommendation without review. See, e.g., Johnstone,
9 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge's
10 recommendation to which no objection was filed).

11 While Defendants have failed to object to Judge Cobb's recommendation to deny
12 summary judgment, the Court will conduct a de novo review to determine whether to
13 adopt the R&R. Judge Cobb found that a genuine material issue of fact exists as to
14 whether the force used was objectively unreasonable such as to preclude summary
15 judgment. (ECF No. 32 at 13.) Having reviewed the R&R and the briefs relating to
16 Defendants' Motion, the Court agrees with Judge Cobb.

17 It is therefore ordered that Judge Cobb's Report and Recommendation (ECF No.
18 32) is adopted in full.

19 It is further ordered that Defendants' motion for summary judgment (ECF No. 25)
20 is denied.

21 DATED THIS 16th day of July 2019.



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24 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

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