

1  
2  
3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 TODD M. HONEYCUTT,

Case No. 3:17-cv-00230-MMD-CBC

7 Plaintiff,

ORDER

8 v.

9 ISIDRO BACA, et al.,

10 Defendants.

11 Pro se Plaintiff Todd M. Honeycutt, currently incarcerated and in the custody of  
12 the Nevada Department of Corrections ("NDOC"), alleges a procedural due process  
13 claim in this 42 U.S.C. § 1983 action. (ECF Nos. 3, 4.) Before the Court is the Report  
14 and Recommendation ("R&R" or "Recommendation") of United States Magistrate Judge  
15 Carla B. Carry (ECF No. 55), recommending that the Court grant Defendants' motion for  
16 summary judgment (ECF No. 42) because the undisputed facts show there was no  
17 inaccuracy in the risk assessment score upon which Plaintiff's claim is based. Plaintiff  
18 had until September 20, 2019 to file an objection (ECF No. 55), but has failed to so. The  
19 Court agrees with Judge Carry and will adopt the R&R in full.

20 This Court "may accept, reject, or modify, in whole or in part, the findings or  
21 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party  
22 timely objects to a magistrate judge's report and recommendation, then the Court is  
23 required to "make a de novo determination of those portions of the [report and  
24 recommendation] to which objection is made." *Id.* Where a party fails to object,  
25 however, the court is not required to conduct "any review at all . . . of any issue that is  
26 not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the  
27 Ninth Circuit has recognized that a district court is not required to review a magistrate  
28 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  
2 review employed by the district court when reviewing a report and recommendation to  
3 which no objections were made); see also Schmidt v. Johnstone, 263 F. Supp. 2d 1219,  
4 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in Reyna-Tapia as adopting  
5 the view that district courts are not required to review "any issue that is not the subject  
6 of an objection."). Thus, if there is no objection to a magistrate judge's recommendation,  
7 then the Court may accept the recommendation without review. See, e.g., Johnstone,  
8 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge's  
9 recommendation to which no objection was filed).

10 While Plaintiff has failed to object to Judge Carry's recommendation to grant  
11 summary judgment in favor of Defendants, the Court will conduct a de novo review to  
12 determine whether to adopt the R&R. Judge Carry found that the undisputed evidence  
13 supports Defendants' contention that Plaintiff's risk assessment was accurately  
14 completed such that his procedural due process rights could not have been violated.  
15 Having reviewed the R&R and the briefs relating to Defendants' motion for summary  
16 judgment, the Court agrees.

17 It is therefore ordered that the Report and Recommendation of Magistrate Judge  
18 Carla B. Carry (ECF No. 55) is accepted and adopted in full.

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

21 The Clerk of Court is directed to enter judgment in accordance with this order  
22 and close this case.

23 DATED THIS 27<sup>th</sup> day of September 2019.



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