

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ANDRE SMITH-LOVEJOY,

Plaintiff:

STATE OF NEVADA,

Defendant.

Case No. 3:17-cv-00272-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. 4) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* (ECF No. 1) and *pro se* complaint (ECF No. 1-1). Plaintiff had until August 7, 2017, to file and objection. (ECF No. 4.) 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. Upon reviewing the R&R and
11 proposed complaint, this Court finds good cause to accept and adopt the Magistrate
12 Judge's R&R in full.

13 It is therefore ordered, adjudged and decreed that the Report and
14 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 4) is accepted and
15 adopted in its entirety.

16 It is ordered that plaintiff's application to proceed *in form pauperis* (ECF No. 1) is
17 granted.

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

19 It is further ordered that the complaint is dismissed with prejudice.

20 The Clerk is directed to close this case.

21 DATED THIS 15th day of August 2017.

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23 MIRANDA M. DU
24 UNITED STATES DISTRICT JUDGE
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