

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JULIO CESAR NAVAS,

Plaintiff,

v.

POLAHA, *et al.*,

Defendants.

Case No. 3:18-cv-00019-MMD-WGC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
WILLIAM G. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (ECF No. 8) ("R&R") relating to Plaintiff's application to proceed in forma pauperis ("IFP") (ECF Nos. 5, 7) and *pro se* complaint (ECF No. 1-1). Plaintiff had until June 19, 2018 to file an objection. (ECF No. 5.) 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

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

8 Although Plaintiff has not objected to the R&R, the Court will conduct a *de novo*
9 review to determine whether to adopt the R&R. Judge Cobb recommends granting
10 Plaintiff's IFP application. (ECF No. 8 at 2.) Judge Cobb further recommends dismissing
11 Plaintiff's claims with prejudice. (*Id.* at 4.) Having reviewed the R&R and the proposed
12 complaint, the Court agrees and will adopt the R&R.

13 It is therefore ordered, adjudged and decreed that the Report and
14 Recommendation of Magistrate Judge William G. Cobb (ECF No. 8) is accepted and
15 adopted in its entirety.

16 It is further ordered that Plaintiff's application to proceed *in forma pauperis* (ECF
17 Nos. 5, 7) is granted. However, Plaintiff will be required, to pay, through NDOC, an initial
18 partial filing fee in the amount of \$13.84, within thirty days of the entry of this Order.
19 Thereafter, whenever his prison account exceeds \$10, Plaintiff will be required to make
20 monthly payments in the amount of twenty percent of the preceding month's income
21 credited to his account until the full \$350 filing fee is paid. The Clerk is directed to send a
22 copy of any this Order to the attention of Chief of Inmate Services for the Nevada
23 Department of Prisons, P.O. Box 7011, Carson City, NV 89702.

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

25 It is further ordered Plaintiff's claims are dismissed with prejudice.

26 ///

27 ///

28 ///

1 The Clerk is directed to enter judgment in accordance with this Order and close
2 this case.

3 DATED THIS 17th day of July 2018.

A handwritten signature in black ink, appearing to read 'Miranda M. Du', is written above a horizontal line.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE