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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DARRELL L. HENDERSON,

Plaintiff,

v.

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

Case No. 3:18-cv-00050-MMD-CBC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
CARLA B. CARRY

Before the Court is the Report and Recommendation of United States Magistrate Judge Carla B. Carry (ECF No. 23) (“R&R”) relating to Plaintiff’s motion to remand (ECF No. 15) and Defendant’s response and cross-motion to affirm (ECF No. 20).¹ Judge Carry recommended denying Plaintiff’s motion and granting Defendant’s motion. (ECF No. 23.) Plaintiff had until February 28, 2019, 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.

¹Plaintiff did not file a response to Defendant’s motion or a reply in support of Plaintiff’s motion.

1 See United States v. Reyna-Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the
2 standard of review employed by the district court when reviewing a report and
3 recommendation to which no objections were made); see also Schmidt v. Johnstone,
4 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in
5 Reyna-Tapia as adopting the view that district courts are not required to review "any
6 issue that is not the subject of an objection."). Thus, if there is no objection to a
7 magistrate judge's recommendation, then the Court may accept the recommendation
8 without review. See, e.g., Johnstone, 263 F. Supp. 2d at 1226 (accepting, without
9 review, a magistrate judge's recommendation to which no objection was filed).

10 Plaintiff failed to object to Judge Carry's recommendation. Nevertheless, this
11 Court finds it appropriate to engage in a de novo review to determine whether to adopt
12 Judge Carry's R&R. Upon reviewing the R&R and the relevant records, this Court
13 agrees with Judge Carry that the administrative law judge's decision is supported by
14 substantial evidence and will adopt the R&R.


15 It is therefore ordered, adjudged and decreed that the Report and
16 Recommendation of Magistrate Judge Carla B. Carry (ECF No. 23) is accepted and
17 adopted in full.

18 It is further ordered that Plaintiff's motion to remand (ECF No. 15) is denied.

19 It is further ordered that Defendant's cross-motion to affirm (ECF No. 20) is
20 granted.

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

23 DATED THIS 15th day of March 2019.

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