

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CYNTHIA BENOIT, as a personal
representative of the estate of **IKAIKA
RYAN CHUNG**, deceased,

Plaintiff,

v.

**ANDREW GRASLEY; MEGAN HEIDT;
INTEGRATED MEDICAL SOLUTIONS,
LLC**, a Texas limited liability company also
known as **INTEGRATED MEDICAL
SOLUTIONS, INC.; FEDERAL BUREAU
OF PRISONS**; and **UNITED STATES OF
AMERICA**,

Defendants.

Case No. 3:23-cv-903-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie Russo issued Findings and Recommendation in this case on May 13, 2024. Judge Russo recommended that this Court grant in part and deny in part Defendants' Motion to Dismiss. No party has filed objections.

Under the Federal Magistrates Act (Act), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Russo’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Russo’s Findings and Recommendation, ECF 35. The Court GRANTS IN PART and DENIES IN PART Defendants’ Motion to Dismiss, ECF 12. The Court DISMISSES (1) Plaintiff’s Rehabilitation Act claim, and (2) Plaintiff’s abuse of a vulnerable person claim to the extent it is premised on the “person with a disability” clause. The Court DENIES Defendants’ motion in all other respects.

IT IS SO ORDERED.

DATED this 5th day of June, 2024.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge