

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Philip A. Brimmer**

Civil Action No. 07-cv-01936-PAB-KMT

ELEST CARLOS MARQUEZ,

Applicant,

v.

LOU ARCHULETA, Warden of the Arkansas Valley Correctional Facility,  
JOHN W. SUTHERS, Attorney General of the State of Colorado, and  
ARISTEDES W. ZAVARAS, Executive Director, Colorado Department of Corrections,

Respondents.

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**ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION**

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This matter is before the Court on the Recommendation of United States Magistrate Judge Kathleen M. Tafoya filed on January 14, 2010 [Docket No. 24]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. *See also* 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on January 14, 2010. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings”). In this matter, I have reviewed the Recommendation to

satisfy myself that there is “no clear error on the face of the record.”<sup>1</sup> See Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, I have concluded that the Recommendation is a correct application of the facts and the law. Accordingly, it is

**ORDERED** as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 24] is ACCEPTED.

2. The Application for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 [Docket No. 3] is denied, and this case is dismissed with prejudice.

3. There is no basis on which to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c).

DATED February 16, 2010.

BY THE COURT:

s/Philip A. Brimmer  
PHILIP A. BRIMMER  
United States District Judge

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<sup>1</sup>This standard of review is something less than a “clearly erroneous or contrary to law” standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo review. Fed. R. Civ. P. 72(b).