

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Christine M. Arguello**

Civil Action No. 07-cv-02041-CMA-BNB

MICHAEL GENE YOUNG, # 81310,

Plaintiff,

v.

THOMAS A. ESKESTRAND, M.D.,  
ORVILLE NEUFELD, PHD., D.O.,  
R. LINDSEY, LILLY, JR., M.D.,  
LOUIS CABLING, M.D.,  
GARY A GO, M.D.,  
KELLY WASKO, RN,  
THEODORE LAWRENCE, P.A.,  
TEJINDER SINGH, P.A.,  
PATTY BEECROFT, M.D.,  
DANNY ENGLUND, M.D.,  
JOSEPH WERMERS, M.D.,  
DEBRA HOWE, RN, and  
JOHN DOE AND JANE DOE 1-50,

Defendants.

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**ORDER ADOPTING AND AFFIRMING RECOMMENDATIONS  
OF UNITED STATES MAGISTRATE JUDGE**

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This matter is before the Court on two motions. First, a Motion to Dismiss (Doc. # 52), filed June 6, 2008, by Defendant Thomas A. Eskestrand, Orville Neufeld, R. Lindsay Lilly, Jr., Louis Cabling, Gary A. Go, Kelly Wasko, Theodore Lawrence, Tejender Singh, Danny Englund, Josephy Wermers, and Debra Howe ("CDOC Defendants") and, second, Plaintiff's Motion for an Injunction (Doc. # 98), filed April 23, 2009.

Both motions were referred to Magistrate Judge Boyd N. Boland for Recommendations. With respect to the CDOC Defendants' Motion to Dismiss (Doc. # 52), Magistrate Judge Boland issued a series of Recommendations (Doc. # 84) on January 26, 2009, to grant it in part and deny it in part. With respect to Plaintiff's Motion for an Injunction (Doc. # 98), Magistrate Judge Boland issued a Recommendation on May 1, 2009 that it be denied. (Doc. # 104.) Both Recommendations are incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed.R.Civ.P. 72(b).

Both Recommendations advised the parties that specific written objections were due within ten (10) days after being served with a copy of the respective Recommendations. (Doc. # 84 at 26; Doc. # 104 at 3.) Despite this advisement, no objections to the Magistrate Judge's Recommendation were filed by either party.

"In the absence of timely objection, the district court may review a magistrate. . . [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[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").

Applying this standard, I am satisfied that the Recommendations of Magistrate Judge Boland are sound and that there is no clear error on the face of the record. See Fed.R.Civ.P. 72(a). I agree that the above-referenced motion to dismiss should be accepted in part and denied in part. I also agree that the above-referenced motion for an injunction should be denied. Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge Boyd N. Boland (Doc. # 84), filed January 26, 2009, is AFFIRMED and ADOPTED.

In accordance therewith, CDOC Defendants' Motion to Dismiss (Doc. # 52) is:

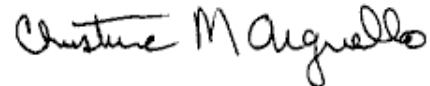
1. GRANTED to the extent it seeks dismissal of the claims against the Defendants in their official capacities for retroactive monetary relief based on Eleventh Amendment immunity;
2. GRANTED insofar as it seeks dismissal of Claims Four, Five, Six, and Seven in their entirety;
3. GRANTED insofar as it seeks dismissal of Claims One and Two as against defendants Eskestrand, Lilly, Cabling, Neufeld, Go, Englund, Singh, and Wermers;
4. GRANTED to the extent it seeks dismissal of Defendants Eskestrand, Lilly, Cabling, Neufeld, Go, Englund, Singh, and Wermers from this action;
5. GRANTED insofar as it is seeks dismissal of all claims alleging violations of the Fourteenth Amendment; and
6. otherwise DENIED, allowing the following claims against CDOC Defendants to proceed: 1) Claim One as against Defendants Wasko and Lawrence; 2) Claim Two as against Defendant Wasko; and 3) Claim Three as against Defendant Howe. (Doc. # 84 at 26, n.10.)

IT IS FURTHER ORDERED that the Recommendation of United States Magistrate Judge Boyd N. Boland (Doc. # 104), filed May 1, 2009, is AFFIRMED and

ADOPTED. In accordance therewith, Plaintiff's Motion for an Injunction (Doc. # 98),  
filed April 23, 2009, is DENIED.

DATED: May 20, 2009

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge