

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

Civil Action No. 07-cv-02426-CMA-CBS

EDDIE DEAN FLUKER,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,  
NEWTON E. KENDIG,  
R. BAUER,  
VIKAS V. PATEL,  
STEVEN NAFZIGER, and  
RONNIE WILEY,

Defendants.

---

**ORDER ADOPTING AND AFFIRMING FEBRUARY 16, 2010 RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

---

This matter is before the Court on Defendant Vikas V. Patel's Motion to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(6). (Doc. # 90.) On August 13, 2009, the Motion was referred to Magistrate Judge Craig B. Shaffer for a Recommendation. (Doc. # 91.) Magistrate Judge Shaffer issued a Recommendation on February 16, 2010, that Defendant Patel's Motion be granted. (Doc. # 108 at 1.) The recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation.

(Doc. # 108 at 12-13.) 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, the Court concludes that Magistrate Judge Shaffer's thorough and comprehensive analyses and recommendations are sound and that there is no clear error on the face of the record. See Fed. R. Civ. P. 72. The Court agrees that Defendant Vikas V. Patel's Motion to Dismiss (Doc. # 90) be granted. Accordingly, it is

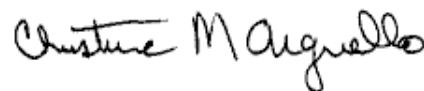
ORDERED THAT the Recommendation of United States Magistrate Judge Craig B. Shaffer, filed February 16, 2010, is AFFIRMED and ADOPTED. It is

FURTHER ORDERED that Defendant Vikas V. Patel is hereby DISMISSED WITH PREJUDICE. It is

FURTHER ORDERED that the caption on all subsequent filings shall be changed to reflect the removal of Vikas V. Patel as a Defendant in this case.

DATED: March 17, 2010

BY THE COURT:



---

CHRISTINE M. ARGUELLO  
United States District Judge