

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 07-cv-002603-REB-KLM

NORBERTO PEREZ AROCHO,

Plaintiff,

v.

S. NAFZINGER, Clinical Director,
RON WILEY, The Warden of USP Penitentiary - ADX, and
HARLEY G. LAPPIN, Federal Bureau of Prison - Director,

Defendants.

**AMENDED¹ ORDER OVERRULING OBJECTIONS TO AND ADOPTING
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

The matters before me are (1) the **Recommendation of United States Magistrate Judge** [#131], filed January 14, 2009; and (2) plaintiff's **Objection to United States Magistrate Judge Recommendation** [#143], filed January 23, 2009. I overrule the objections, adopt the recommendation, and grant defendants' motion to dismiss.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which objections have been filed, and have considered carefully the recommendation, objections, and applicable caselaw. In addition, because plaintiff is

¹ This Amended Order is entered to confirm that although the original complaint caption named "S. Nafzinger – Clinical Director" as a defendant, the real party defendant's name is Steven Nafziger. The judgment, therefore, shall reflect the correct name. *See Mitchell v. Maynard*, 80 F.3d 1433, 1441 (10th Cir. 1996) ("It has been held a party not properly named in the caption of a complaint may still be properly before the court if the allegations in the body of the complaint make it plain the party is intended as a defendant[.]").

proceeding *pro se*, I have construed his pleadings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See Hall v. Bellmon**, 935 F.2d 1106, 1110 (10th Cir. 1991). The recommendation is detailed and well-reasoned. Plaintiff's objections are imponderous and without merit.

Therefore, I find and conclude that the arguments advanced, authorities cited, and findings of fact, conclusions of law, and recommendation proposed by the magistrate judge should be approved and adopted.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#131] filed January 14, 2009, is **APPROVED AND ADOPTED** as an order of this court;

2. That the objections stated in plaintiff's **Objection to United States Magistrate Judge Recommendation** [#143] filed January 23, 2009, are **OVERRULED**;

3. That **Defendants Nafziger, Wiley, and Lappin's Motion To Dismiss** [#65] filed June 30, 2008, is **GRANTED**;

4. That any pending motion is **DENIED AS MOOT**;


5. That plaintiff's claims against defendants are **DISMISSED WITH PREJUDICE**;

6. That judgment **SHALL ENTER** on behalf of defendants, Steven Nafziger, Clinical Director, Ron Wiley, Warden of the USP Penitentiary-ADX, and Harley Lappin, Federal Bureau of Prisons Director, and against plaintiff, Norberto Perez Arocho, as to all claims for relief and causes of action; and

7. That defendants are **AWARDED** their costs to be taxed by the Clerk of the Court pursuant to Fed.R.Civ.P. 54(d) and D.C.COLO.LCivR 54.1.

Dated March 2, 2009, at Denver, Colorado.

BY THE COURT:


Robert E. Blackburn
United States District Judge