

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

Civil Action No. 08-cv-00299-PAB-BNB

ERIC MARSHALL,

Plaintiff,

v.

KEVIN MILDYARD, Warden,
FLOYD WAID, West CC Manager,
M. NEGLEY, Captain/Shift Commander,
STEVEN BADE, Lt.,
JAMES FRYER, Correctional Officer, and
ANTHONY DECESARO, Grievance Officer,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Boyd N. Boland filed on September 18, 2009 [Docket No. 84]. The Recommendation states that objections to the Recommendation must be filed within ten days after its service on the parties. See also 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on September 18, 2009. 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."¹ 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. 84] is ACCEPTED.
2. Plaintiff's Motion for Preliminary Injunction [Docket No. 50] and Amended Motion for Preliminary Injunction [Docket No. 51] are DENIED.

DATED December 4, 2009.

BY THE COURT:

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

¹This 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).