

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

Civil Action No. 08-cv-00484-CMA-KLM

DWIGHT D. DAVIS,

Plaintiff,

v.

MICHAEL ARRELLANO, Warden, AVCF, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Defendants.

**ORDER ADOPTING AND AFFIRMING OCTOBER 29, 2009 RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on Plaintiff's Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (Doc. #2), filed on March 10, 2008. The application was referred to Magistrate Judge Kristen L. Mix for a Recommendation pursuant to a standing Order of Reference dated July 9, 2008. Magistrate Judge Mix issued a Recommendation on October 29, 2009 that the above-referenced application be denied. (Doc. # 68 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 ten (10) days after being served with a copy of the Recommendation.¹ (Doc.

¹ Though Fed.R.Civ.P. 72(b) was recently-revised to allow a party 14 days to serve and file specific written objections, the Rules in effect at the time of the Recommendation allowed a party 10 days to serve and file specific written objections.

68 at 18.) 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 Recommendation of Magistrate Judge Mix is 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 Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 be denied. Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge Kristen L. Mix, filed October 29, 2009, is AFFIRMED and ADOPTED.

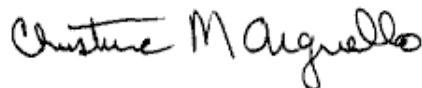
In accordance therewith, it is

FURTHER ORDERED that Plaintiff's Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (Doc. # 2) is DENIED. It is

FURTHER ORDERED that this case is DISMISSED WITH PREJUDICE.

DATED: December 17, 2009

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge