

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
LEWIS T. BABCOCK, JUDGE**

Civil Case No. 08-cv-00649-LTB-MEH

DAVID EARL ANTELOPE,

Plaintiff,

v.

UNITED STATES OF AMERICA, and  
DR. KELLAR,

Defendants.

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**ORDER**

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On April 6, 2011, I entered my order accepting the Recommendation of the Magistrate Judge that summary judgment in favor of Defendants be granted and dismissing the action with prejudice (Doc 171). The order was issued because the Plaintiff failed to file specific written objections to the Magistrate Judge's Recommendation and was therefore barred from *de novo* review.

On April 8, 2011, the Plaintiff filed written objections to the Magistrate Judge's Recommendation (Doc 172). Although late, out of an abundance of caution, I have undertaken review of the Recommendation *de novo* in light of the file and record in this case. Upon such *de novo* review, I conclude that the Recommendation is correct.

IT IS THEREFORE ORDERED that the Order of Dismissal (Doc 171) issued April 6, 2011 is reaffirmed but in the alternative, on *de novo* review, having concluded that the

Recommendation is correct, the Motion for Summary Judgment will be granted on this basis as well, and the action dismissed with prejudice.

BY THE COURT:

s/Lewis T. Babcock  
Lewis T. Babcock, Judge

DATED: April 11, 2011