

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

Civil Case No. 08-cv-00968-REB-BNB

ALLEN J. KENTA,

Plaintiff,

v.

CITY OF AURORA,
"GANG UNIT" AURORA POLICE DEPT.,
"CHIEF OF POLICE" DANIEL OATES,
"GANG UNIT OFFICER" DAVE GALLEGOS,
"POLICE OFFICER" SILVERMAN,
"OFFICER" CRAIG MORGAN,
"OFFICER" SEAN PASCAL,
"OFFICER JOHN BORQUEZ, and
OTHER UNKNOWN AURORA POLICE OFFICERS,

Defendants.

**AMENDED¹ ORDER ADOPTING RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

This matter is before me on the following: 1) the defendants' **Motion To Dismiss for Failure To Prosecute** [#43]² filed May 6, 2009; and 2) the **Recommendation of United States Magistrate Judge** [#48] Filed May 27, 2009. I approve and adopt the recommendation and I grant the motion to dismiss.

¹ Under FED. R. CIV. P. 60(a), this amended order is issued to correct an erroneous reference to the operative complaint in the paragraph numbered 4 (four) in my original **Order Adopting Recommendation of United States Magistrate Judge** [#56] filed July 14, 2009. The operative complaint is the plaintiff's **Prisoner Complaint** [#14] filed August 15, 2008. This amended order contains no other substantive changes.

² "[#43]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

As detailed in the magistrate judge's recommendation, the plaintiff failed to respond to the defendants' discovery requests and failed to respond to the defendants' motion to compel and motion to dismiss. Since April of this year, court orders mailed to the plaintiff at his address of record consistently have been returned as undeliverable. A copy of the magistrate judge's recommendation was mailed to the plaintiff at his address of record but that mail was returned to the court as undeliverable [#49]. The plaintiff has not filed a notice of change of address with the court.

Because the plaintiff is 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 *Erickson v. Pardus***, 551 U.S. 89, ___, 127 S. Ct. 2197, 2200 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991). No party has filed an objection to the magistrate judge's recommendation [#48]. Absent objections to the recommendation, I am required to review the recommendation only for plain error. **See *Morales-Fernandez v. Immigration & Naturalization Service***, 418 F.3d 1116, 1122 (10th Cir. 2005). The recommendation is detailed and well-reasoned. Finding no error, much less plain error, in the magistrate judge's reasoning and recommended dispositions, I find and conclude that the arguments advanced, authorities cited, and findings of fact, conclusions of law, and recommendations 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** [#48] Filed May 27, 2009, is **APPROVED AND ADOPTED** as an order of this court;
2. That the defendants' **Motion To Dismiss for Failure To Prosecute** [#43] filed May 6, 2009 is **GRANTED**;

3. That under FED. R. CIV. P. 41(b), this case is **DISMISSED** with prejudice;
4. That **JUDGMENT SHALL ENTER** in favor of each defendant named in the plaintiff's **Prisoner Complaint** [#14], filed August 14, 2008, and against the plaintiff;
5. That each defendant is **AWARDED** his, her, or its costs, to be taxed by the Clerk of the Court under Fed.R.Civ.P. 54(d)(1) and D.C.COLO.LCivR 54.1; and
6. that this order **SUPPLANTS** and **SUPERSEDES** the **Order Adopting Recommendation of United States Magistrate Judge** [#56] entered July 14, 2009.

Dated July 16, 2009, at Denver, Colorado.

BY THE COURT:


Robert E. Blackburn
United States District Judge