

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

Civil Action No. 08-cv-01193-PAB-MEH

ROCCO A. DIXON,

Plaintiff,

v.

ADAM NIELSEN, in individual and official capacity,
MONICA WINFREY, in individual and official capacity, and
DANIEL MONTGOMERY, in individual and official capacity,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Michael E. Hegarty filed on December 12, 2008 [Docket No. 33]. 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 December 12, 2008. No party has objected to the Recommendation.

In the absence of an 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); *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 for Dismissal for Failure to Pay and Failure to Prosecute [Docket No. 33] is ACCEPTED.
2. Pursuant to Federal Rule of Civil Procedure 41(b), this matter, and all claims asserted therein, is dismissed without prejudice, with each party to bear its own attorneys’ fees and costs.
3. All other pending motions are DENIED as moot.

DATED January 7, 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).