

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

Civil Case No. 08-cv-01248-REB-MEH

TODD A. AURIT,

Plaintiff,

v.

CHARLES OLIN, SOTMP, Therapist,  
ROBBIE BOLTON, SOTMP, Therapist,  
JOE STROMMEL, Mgr. SOTMP,  
BURL MCCLULLAR, Prog. Mgr. SOTMP,  
RUSTY LANDER, MHD, SOTMP, Cord [sic],  
SHANE MARTIN, Head of Mental Health,  
JOHN EVANS, Case Mgr., and  
CAROL MORTON, Case Mgr.

Defendants.

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

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**Blackburn, J.**

This matter is before me on the following: (1) the defendants' **Motion To Dismiss** [#33]<sup>1</sup> filed January 23, 2009; and (2) the magistrate judge's **Recommendation on Motion for Summary Judgment** [#51] filed May 7, 2009. After the motion to dismiss was filed, the magistrate judge converted the motion to dismiss to a motion for summary judgment and permitted further briefing. Thus, in his recommendation the magistrate judge applies the standards applicable to a motion for summary judgment. I approve and adopt the recommendation.

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<sup>1</sup> "[#33]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

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 (10<sup>th</sup> Cir. 1991). No objections to the recommendation have been filed <sup>2</sup> and, therefore, I review the recommendation only for plain error. **See *Morales-Fernandez v. Immigration & Naturalization Service***, 418 F.3d 1116, 1122 (10<sup>th</sup> Cir. 2005).<sup>3</sup> The recommendation are detailed and well-reasoned. Finding no error, much less plain error, in the magistrate judge's recommended disposition, I find and conclude that the recommendation should be approved and adopted.

**THEREFORE, IT IS ORDERED** as follows:

1. That the magistrate judge's **Recommendation on Motion for Summary Judgment** [#51] filed May 7, 2009, is **APPROVED AND ADOPTED** as an order of this court;
2. That the defendants' **Motion To Dismiss** [#33] filed January 23, 2009, properly converted to a motion for summary judgment, is **GRANTED**;
3. That **JUDGMENT SHALL ENTER** in favor of the defendants, Charles Olin, Robbie Bolton, Joe Strommel, Burl Mcclullar, Rusty Lander, Shane Martin, John Evans, Carol Morton, against the plaintiff, Todd A. Aurit;

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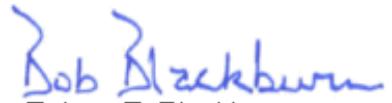
<sup>2</sup> I note that the plaintiff filed an un-captioned document [#59], filed August 7, 2009, that might be read as an objection. This document was filed long after the deadline for filing objections had expired and, thus, is not properly considered as an objection. Even if this document could be considered as a properly filed objection, nothing in the document constitutes a valid objection to the magistrate judge's recommendation.

<sup>3</sup> This standard pertains even though plaintiff is proceeding *pro se* in this matter. ***Morales-Fernandez***, 418 F.3d at 1122.

4. That defendants are **AWARDED** their costs to be taxed by the Clerk of the Court pursuant to FED. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1; and
5. That this case is **DISMISSED**.

Dated September 21, 2009, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn  
United States District Judge