

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

Civil Action No. 08-cv-01396-PAB-KLM

MICHAEL THOMAS MCCULLOUGH,

Plaintiff,

v.

ANDY BECHERT, DEPUTY SHERIFF,  
DOUGLAS COUNTY SHERIFF,  
DR. SINGH, JAIL PHYSICIAN,  
LT. AQUINO, DEPUTY SHERIFF,  
CRAIG THOMPSON, JAIL NURSE,  
DR. CORY, JAIL RADIOLOGIST,  
DR. D. CUNNINGHAM, JAIL DENTIST,  
CORRECTIONAL HEALTHCARE MGMT., and  
UNKNOWN PERSON,

Defendants.

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**ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION**

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This matter is before the Court on the Recommendation of United States Magistrate Judge Kristen L. Mix filed on March 19, 2009 [Docket No. 76]. 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 March 19, 2009. No party has objected to the Recommendation.

As noted in the Recommendation, court mail addressed to plaintiff McCullough has been returned as undeliverable since January 2009. The Recommendation was served at plaintiff's last known address at the Douglas County Detention Center and was also returned as undeliverable. However, for the reasons stated in the

Recommendation, plaintiff has failed to inform the court of his current mailing address and therefore bears responsibility for not receiving a copy of the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation 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.”<sup>1</sup> 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 of United States Magistrate Judge [Docket No. 76] is accepted
2. CHM Defendants’ Motion to Dismiss for Plaintiff’s Failure to Prosecute [Docket No. 71] is granted.
3. This matter, and all claims asserted therein, is dismissed with prejudice.

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<sup>1</sup>This 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).

4. All other pending motions are denied as moot.

DATED April 29, 2009.

BY THE COURT:

s/Philip A. Brimmer \_\_\_\_\_  
PHILIP A. BRIMMER  
United States District Judge