

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 08-cv-01417-CMA-KLM

MARIO E. VILLABONA-ALVARADO,

Plaintiff,

v.

JOHN M. HURLEY,
G. L. HERSHBERGER, and
WENDY J. ROAL,

Defendants.

**ORDER ADOPTING AND AFFIRMING APRIL 30, 2009 RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on Defendant Roal's Motion To Dismiss (Doc. # 39), filed March 23, 2009. The motion was referred to Magistrate Judge Kristen L. Mix for a Recommendation by Order of Reference dated March 24, 2009. Magistrate Judge Mix issued a Recommendation on April 30, 2009 that the above-referenced motion be granted as to Defendant Roal. (Recommendation at 8.) The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed.R.Civ.P. 72(b).

The Recommendation advised the parties that specific written objections were due within ten (10) days after being served with a copy of the Recommendation. (Recommendation at 9.) Despite this advisement, no objections to the Magistrate Judge's Recommendation were filed by either party.

"In the absence of timely 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) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that “[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”).

Applying this standard, I am satisfied that the Recommendation of Magistrate Judge Mix is sound and that there is no clear error on the face of the record. See Fed.R.Civ.P. 72(a). I agree that the above-referenced motion to dismiss should be granted. Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge Kristen L. Mix (Doc. # 41), filed April 30, 2009, is AFFIRMED and ADOPTED.

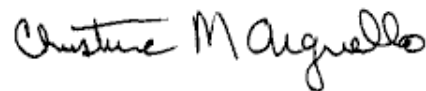
In accordance therewith, it is

FURTHER ORDERED that Defendant Roal's Motion To Dismiss (Doc. # 39) be GRANTED and that Plaintiff's Complaint be DISMISSED WITHOUT PREJUDICE as to Defendant Wendy J. Roal. It is

FURTHER ORDERED that the Order To Show Cause (Doc. # 27) be made absolute and that the remaining Defendants and claims be DISMISSED WITHOUT PREJUDICE.

DATED: May 18, 2009

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge