

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01649-WYD-KMT

ELI C. ANDRADE,

Plaintiff,

v.

EVAN CHRIST/Exec. Director of T.T.C.,
DINO MARTINEZ/Program Director of T.T.C., and
ALLYSON WEIKLE/Case Mgr. of T.T.C.,

Defendants.

**ORDER AFFIRMING AND ADOPTING RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

THIS MATTER is before the Court on the TTC Defendants' Combined Motion to Dismiss and for Summary Judgment (docket #36), which was filed on April 6, 2009 ("Motion"). The matter was referred to Magistrate Judge Tafoya for a Recommendation by Order of Reference dated November 10, 2008. Magistrate Judge Tafoya issued a Recommendation on August 25, 2009, which is incorporated herein by reference. See 28 U.S.C. § 636(b)(1), FED. R. CIV. P. 72(b), D.C.COLO.LCivR. 72.1. Magistrate Judge Tafoya recommends therein that Defendants' Motion be granted and that summary judgment be entered in favor of Defendants Christ, Martinez, and Weikle as to all claims asserted against them, and that this case be dismissed with prejudice in its entirety. (Recommendation at 15.)

Magistrate Judge Tafoya advised the parties that written objections were due within ten (10) days after service of a copy of the Recommendation. (Recommendation

at 15-16.) Despite this advisement, no objections were filed to the Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *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"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."¹ See FED. R. CIV. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Magistrate Judge Tafoya's Recommendation is thorough, well reasoned and sound. I agree with Magistrate Judge Tafoya that the Defendants' Motion should be motion should be granted and that summary judgment should be entered in favor of Defendants Christ, Martinez, and Weikle as to all claims asserted against them for the reasons stated in both the Recommendation and this Order.

Based on the foregoing, it is

ORDERED that the Recommendation of United States Magistrate Judge Tafoya (docket #44), filed August 25, 2009, is **AFFIRMED** and **ADOPTED**.

In accordance therewith, it is

FURTHER ORDERED that the TTC Defendants' Combined Motion to Dismiss

¹ Note, 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).

and for Summary Judgment (docket #36) is **GRANTED**. It is

FURTHER ORDERED that summary judgment is entered in favor of Defendants Christ, Martinez, and Weikle as to all claims asserted against them. It is

FURTHER ORDERED that this case is **DISMISSED WITH PREJUDICE** in its entirety.

Dated: September 18, 2009

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge