

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

Civil Action No. 08-cv-01732-CMA-CBS

JOE NUNEZ,

Applicant,

v.

PEOPLE OF THE STATE OF COLORADO, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

**ORDER ADOPTING AND AFFIRMING APRIL 15, 2009 RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on Plaintiff's Application for a Writ of *Habeas Corpus* Pursuant to 28 U.S.C. § 2254 (Doc. # 6), filed September 9, 2008. The application was referred to Magistrate Judge Craig B. Shaffer for a Recommendation by Order of Reference dated January 30, 2009. Magistrate Judge Shaffer issued a Recommendation on April 15, 2009 that the above-referenced application be denied. (Recommendation at 9.) The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed.R.Civ.P. 72(b).

There have been no objections to the Magistrate Judge's Recommendation 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 Shaffer 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 application for a writ of *habeas corpus* should be denied. Accordingly, it is hereby

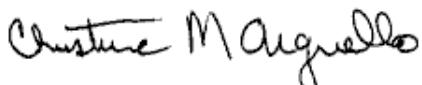
ORDERED that the Recommendation of United States Magistrate Judge Craig B. Shaffer (Doc. # 24), filed April 15, 2009, is AFFIRMED and ADOPTED.

In accordance therewith, it is

FURTHER ORDERED that Plaintiff's Application for a Writ of *Habeas Corpus* Pursuant to 28 U.S.C. § 2254 (Doc. # 6), filed September 9, 2008 is DENIED. It is FURTHER ORDERED that this civil action is DISMISSED WITH PREJUDICE.

DATED: May 18, 2009

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge