

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

Civil Case No. 08-cv-02209-REB-MJW

TROY A. SHORT,

Plaintiff,

v.

CAPTAIN A. J. TRUJILLO,  
LIEUTENANT CORY BURKET, and  
LIEUTENANT JAMES MAESTAS,

Defendants.

---

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

---

**Blackburn, J.**

The matters before me are the magistrate judge's **Recommendations on Defendants' Motion To Dismiss (Docket No. 48) and Plaintiff's Motion To Add Sergeant Shad Draper as a Defendant (Docket No. 52)** [#68], filed July 10, 2009. No objections having been filed to the recommendations, I review them only for plain error. ***See Morales-Fernandez v. Immigration & Naturalization Service***, 418 F.3d 1116, 1122 (10<sup>th</sup> Cir. 2005).<sup>1</sup> Finding no such error in the magistrate judge's recommended disposition, I find and conclude that the recommendations should be approved and adopted.<sup>2</sup>

---

<sup>1</sup> This standard pertains even though plaintiff is proceeding *pro se* in this matter. ***Morales-Fernandez***, 418 F.3d at 1122.

<sup>2</sup> Although the magistrate judge's substantive discussion recommends dismissing plaintiff's first claim for relief (**see Recommendations** at 13-14), that recommendation does not appear in the ultimate articulation of the magistrate judge's conclusions (**see id.** at 23). Nevertheless, because it appears clear

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

1. That the magistrate judge's **Recommendations on Defendants' Motion To Dismiss (Docket No. 48) and Plaintiff's Motion To Add Sergeant Shad Draper as a Defendant (Docket No. 52) [#68]**, filed July 10, 2009, are **APPROVED AND ADOPTED** as orders of this court;

2. That defendants' **Motion To Dismiss [#48]**, filed February 2, 2009, is **GRANTED IN PART** and **DENIED IN PART**;

3. That the motion to dismiss [#48] is **GRANTED** with respect to plaintiff's Claim One, which claim is **DISMISSED WITH PREJUDICE**;

4. That the motion to dismiss [#48] is **GRANTED** further with respect to plaintiff's claims against defendant, Aristedes W. Zavaras, and those claims are **DISMISSED WITH PREJUDICE**;

5. That defendant, Aristedes W. Zavaras, is **DROPPED** as a named party defendant to this action, and the case caption is **AMENDED** accordingly;

6. That in all other respects, the motion to dismiss is **DENIED**;

7. That plaintiff's **Motion To Add Sergeant Shad Draper as Defendant [#52]**, filed February 12, 2009, is **GRANTED IN PART** and **DENIED IN PART**;

8. That plaintiff's motion to amend the complaint [#52] is **GRANTED** insofar as plaintiff seeks to join and include Shad Draper as a party defendant and to assert a claim against Draper for his alleged failure to act on plaintiff's allegation that another

---

that the magistrate judge intended to recommend dismissal of Claim One, and that recommendation is justified by the facts and law, I will dismiss that claim as well.

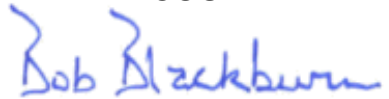
inmate had broken into his locker box and shown to other inmates a letter demonstrating plaintiff's cooperation with the Fremont County, Colorado, Sheriff's Office in their investigation of a plot to escape the Fremont County Jail and murder two drug enforcement agents, as set forth in plaintiff's motion to amend [#52] ¶ 2 at 1;

9. That plaintiff **SHALL FILE** an amended complaint in accordance with this **Order Adopting Recommendations of the United States Magistrate Judge** on or before **September 11, 2009**; and

10. That in all other respects, plaintiff's motion to amend [#52] is **DENIED**.

Dated August 10, 2009, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge