

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

Civil Case No. 09-cv-00114-REB-KMT

JOHN SAUNDERS,

Plaintiff,

v.

J.M. WILNER, individually and in his official capacity as Warden, at the Federal Correctional Institution [*sic*] - Florence, and  
DAVE GRUDERS, individually and in his official capacity as the Religious Coordinator at the Federal Correctional Institution - Florence,

Defendants.

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

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**Blackburn, J.**

This matter is before me on the following: (1) **Defendants' Motion To Dismiss** [#17]<sup>1</sup> filed April 20, 2009; and (2) the **Recommendation of United States Magistrate Judge** [#37] filed August 25, 2009. The plaintiff filed objections [#38] to the recommendation, the defendants filed a response [#39] to the objections, and the plaintiff filed a reply [#40]. I approve and adopt the recommendation [#37], overrule the plaintiff's objections [#38], and grant the motion to dismiss [#17] in part and deny it in part.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which objections have been filed, and I have considered carefully the recommendation, objections, and applicable law. In addition, because the plaintiff is

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<sup>1</sup> “[#17]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

proceeding *pro se*, I have construed his pleadings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991). The recommendation is detailed and well-reasoned. Finding no error in the magistrate judge's reasoning and recommended disposition, I find and conclude that the arguments advanced, authorities cited, and findings of fact, conclusions of law, and recommendation proposed by the magistrate judge should be approved and adopted. I find also that the objections [#38] stated by the plaintiff are without merit.

The plaintiff is a prisoner at the United States Federal Correctional Institution in Florence, Colorado. The plaintiff alleges that he is a devoted practitioner of the Eckankar religion and that the defendants have prevented him from engaging in practices required by his religion. In her recommendation, the magistrate judge analyzes thoroughly and correctly the issues of exhaustion of administrative remedies, personal participation, sovereign immunity, qualified immunity, and the applicability to the plaintiff's claims of the First Amendment to the United States Constitution and the Religious Freedom Restoration Act (RFRA) of 1993, 42 U.S.C. §§ 2000bb through 2000bb-4.

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


1. That the **Recommendation of United States Magistrate Judge** [#37] filed August 25, 2009, is **APPROVED AND ADOPTED** as an order of this court;
2. That the **Defendants' Motion To Dismiss** [#17] filed April 20, 2009, is **GRANTED** as to all claims against defendants Wilner and Gruders in their individual capacities and as to all claims for compensatory damages against defendants Wilner and Gruders in their official capacities;

3. That all claims against defendants Wilner and Gruders in their individual capacities and all claims for compensatory damages against defendants Wilner and Gruders in their official capacities are **DISMISSED WITH PREJUDICE**;

4. That otherwise, the **Defendants' Motion To Dismiss** [#17] filed April 20, 2009, is **DENIED**.

Dated February 18, 2010, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge