

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

Civil Action No. 09-cv-00462-CMA-MEH

FREDDY LEE SLACK,

Applicant,

v.

WARDEN SUSAN JONES, and
JOHN W. SUTHERS, The Attorney General of the State of Colorado,

Respondents.

**ORDER ADOPTING AND AFFIRMING AUGUST 31, 2009 RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on Plaintiff's Motion to Appeals [sic] Case 09-1312 and Not Request to Reinstate My Case 09-cv-00462-ZLW (Doc. # 43) and Plaintiff's Motion Again Stop My Reinstate of Case 09-cv-00462-CMA-MEH but to Pursue Notice of Appeals Case 09-cv-01312 Immediately [sic] (Doc. # 49) (hereinafter, the "Pre-Appeals Motions"). The Pre-Appeals Motions were referred to Magistrate Judge Michael E. Hegarty for a Recommendation by Orders of Reference dated August 4, 2009 and August 6, 2009. Magistrate Judge Hegarty issued a Recommendation on August 31, 2009 that the above-referenced motions be granted. (Doc. # 60 at 1.) 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. (Doc. # 60 at 1.) Despite this advisement, no objections to the Magistrate Judge's Recommendation were filed.

"In the absence of timely objection, the district court may review a magistrate'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, the Court is satisfied that the Recommendation of Magistrate Judge Hegarty is sound and that there is no clear error on the face of the record. See Fed.R.Civ.P. 72(a). The Court agrees that the above-referenced motions should be granted.

The Pre-Appeals Motions are also dismissed due to Applicant's failure to abide by the Court's October 20, 2009 Order (Doc. # 73), in which the Court ordered Applicant to "[i]nform the Court whether he wishes to withdraw his Pre-Appeals Motions [] by no later than October 28, 2009." The Court also stated,

If Applicant fails to properly respond to the Order to Show Cause by this deadline, the Court will adopt the August 31, 2009 Report and Recommendations of Magistrate Judge Michael E. Hegarty and will grant Applicant's Pre-Appeals Motions, which will result in the dismissal of his complaint, without prejudice. (Emphasis omitted.)

To date, Applicant has failed to file a pleading that is responsive to the Court's order to show cause (Doc. # 71). Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge Michael E. Hegarty (Doc. # 60), filed August 31, 2009, is AFFIRMED and ADOPTED.

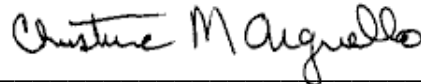
In accordance therewith, it is

FURTHER ORDERED that Plaintiff's Motion to Appeals [sic] Case 09-1312 and Not Request to Reinstate My Case 09-cv-00462-ZLW (Doc. # 43) and Plaintiff's Motion Again Stop My Reinstate of Case 09-cv-00462-CMA-MEH but to Pursue Notice of Appeals Case 09-cv-01312 Imediately [sic] (Doc. # 49) are GRANTED. It is

FURTHER ORDERED that this civil action and Complaint is DISMISSED WITHOUT PREJUDICE.

DATED: December 15, 2009

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge