

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 09-cv-00640-PAB-KLM

MARK EUGENE HOWARD,

Plaintiff,

v.

LAS ANIMAS COUNTY SHERIFF'S OFFICE,
JAMES W. CASIAS, Las Animas County Sheriff, in his professional capacity,
DEREK NAVARETTE, Las Animas County Under Sheriff, in his professional capacity,
LAS ANIMAS COUNTY BOARD OF COUNTY COMMISSIONERS,
LAS ANIMAS COUNTY ATTORNEY'S OFFICE,
MARY D. NEWNAM, Las Animas County Attorney, in her official capacity,
FOWLER, SCHIMBERG & FLANAGAN, P.C.,
JESSIE MANZANARES, Attorney,
TIMOTHY P. SCHIMBERG, in his professional capacity, and
COUNTY TECHNICAL SERVICES, INC.

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Kristen L. Mix filed on February 23, 2010 [Docket No. 121]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. *See also* 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on February 23, 2010. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. *Summers v. Utah*, 927 F.2d

1165, 1167 (10th Cir. 1991); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[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”). In this matter, I have reviewed the Recommendation to satisfy myself that there is “no clear error on the face of the record.”¹ See Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, I have concluded that the Recommendation is a correct application of the facts and the law. Accordingly, it is

ORDERED as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 121] is ACCEPTED.

2. Defendants Timothy Schimberg and Fowler, Schimberg & Flanagan’s Motion to Dismiss [Docket No. 47] is GRANTED.

3. Defendant County Technical Services, Inc.’s Motion to Dismiss [Docket No. 57] is GRANTED.

4. The Las Animas County defendants’ Motion to Dismiss [Docket No. 90] is GRANTED.

5. The individual Las Animas County defendants’ Motion to Dismiss [Docket No. 91] is GRANTED.

¹This 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).

6. Plaintiff's Petition for Entry of Amended Complaint, Amending of Complaint Caption and Servicing of by U.S. Marshal of New Defendants [Docket No. 119] is DENIED.

7. Any other pending motions are DENIED as moot.

8. This matter, and all claims asserted therein, is dismissed with prejudice.

DATED March 22, 2010.

BY THE COURT:

s/Philip A. Brimmer

PHILIP A. BRIMMER
United States District Judge