

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Chief Judge Wiley Y. Daniel

Civil Action No. 09-cv-00983-WYD-KLM

WELLMAN E. GIBSON,

Plaintiff,

v.

ANNA MARIE CAMPBELL,  
C. HOLST, AIC,  
SHIRLEY STEINBECK,  
MARSHALL GRIFFITH,  
LT. STEINBECK, and  
DOCTOR ASSEN,

Defendants.

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

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THIS MATTER is before the Court in connection with Defendants' Motion to Dismiss Plaintiff's Claims for Injunctive Relief as Moot filed July 10, 2012. This motion was referred to Magistrate Judge Mix. A Recommendation of United States Magistrate Judge was issued on August 21, 2012, and is incorporated herein by reference.

Magistrate Judge Mix recommends therein that Defendants' motion be denied, as she found that Defendants did not meet their burden of establishing mootness as to all of Plaintiff's requested injunctive relief. (Recommendation at 1, 6). In so finding, she noted that the circumstances at issue are similar to those of another case in this court, *Vigil v. Colorado Dep't of Corrections*, Case No. 09-cv-01676-PAB-KLM. (*Id.* at 5.)

Magistrate Judge Mix advised the parties that specific written objections were due within fourteen (14) days after service of the Recommendation. (Recommendation

at 7.) No objections were filed to the Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *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"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."<sup>1</sup> See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I agree with Magistrate Judge Mix that Defendants have not established that all of Plaintiff's requested injunctive relief is moot. Accordingly, it is

ORDERED that the Recommendation of United States Magistrate Judge dated August 21, 2012 (ECF No. 332) is **AFFIRMED and ADOPTED**. In accordance therewith, it is

ORDERED that Defendants' Motion to Dismiss Plaintiff's Claims for Injunctive Relief as Moot (ECF No. 319) is **DENIED**.

Dated: September 25, 2012

BY THE COURT:

s/ Wiley Y. Daniel  
Wiley Y. Daniel  
Chief United States District Judge

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<sup>1</sup> Note, this 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).