

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

Civil Action No. 09-cv-01041-CMA-KLM

EARL WILLIAM CAMPBELL, JR.,

Plaintiff,

v.

DR. FLOYD POHLMAN, M.D.,
DR. GAGAN SINGH, M.D.,
DR. PAULA FRANTZ, M.D.,
KATHERN RITTENHOUSE, P.A.C.,
BRIAN WEBSTER, P.A.C.,
JOANN STOCK, P.A.C., and
SERGEANT JOHNSON, LU-3,

Defendants.

**ORDER ADOPTING AND AFFIRMING APRIL 14, 2011 RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on the April 14, 2011 Recommendations by Magistrate Judge Kristen L. Mix that Defendant Pohlman's Motion for Summary Judgment, (Doc. # 140), be granted and that summary judgment be entered in favor of Defendant Pohlman as to all claims asserted by Plaintiff against Defendant Pohlman in the Amended Complaint. (Doc. # 123.) The Magistrate Judge also recommended that Plaintiff's claims against Defendant Webster be dismissed without prejudice pursuant to

Fed. R. Civ. P. 4(m).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 fourteen (14) days after being served with a copy of the Recommendation. (Doc. # 28 at 20.) Despite this advisement, no objections to the Magistrate Judge Mix's Recommendation were filed by either party. "In the absence of timely objection, the district court may review a magistrate . . . [judge'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").

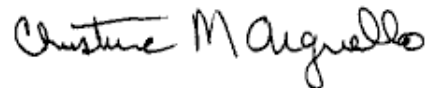
The Court has reviewed all the relevant pleadings concerning Defendant Pohlman's Motion for Summary Judgment and the Recommendation. Based on this review, the Court concludes that the Magistrate Judge's thorough and comprehensive analyses and recommendations are correct and that "there is no clear error on the face of the record." Fed. R. Civ. P. 72 advisory committee's note. Therefore, the Court ADOPTS the Recommendation of the United States Magistrate Judge as the findings and conclusions of this Court.

¹ On January 11, 2011, the Magistrate Judge issued an Order to Show Cause (Doc. # 148) as to why Plaintiff had failed to serve Defendant Webster. Plaintiff did not respond to that Order. Defendant Webster has not been served within 120 days of the Amended Complaint and Plaintiff has not shown good cause for that failure.

Accordingly, it is ORDERED that the Recommendation of the United States Magistrate Judge (Doc. # 31) is AFFIRMED and ADOPTED. It is further ORDERED that Defendant Pohlman's Motion for Summary Judgment (Doc. # 140) be GRANTED and all claims asserted by Plaintiff that pertain to Defendant Pohlman are DISMISSED WITH PREJUDICE. Plaintiff has not shown good cause for his failure to timely serve Defendant Webster. His claims, as they pertain to Defendant Webster are, therefore, DISMISSED WITHOUT PREJUDICE.

DATED: May 09, 2011

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge