

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

Civil Action No. 09-cv-01051-REB-KMT

JOHN NASIOUS,

Plaintiff,

v.

CATHIE HOLST, Manager of Correctional Legal Services, ADA Coordinator AIC CDOC,  
and  
ADRIENNE JACOBSON, Legal Assistant AIC/ADA Coordinator CDOC,

Defendants.

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

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**Blackburn, J.**

The matter before me is the **Recommendation of United States Magistrate Judge** [#224]<sup>1</sup> filed August 12, 2011. No objections having been filed to the recommendation, I review it only for plain error. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10<sup>th</sup> Cir. 2005).<sup>2</sup> Finding no such error in the magistrate judge's recommended disposition, I find and conclude that the recommendation should be approved and adopted.

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<sup>1</sup> “[#224]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

<sup>2</sup> This standard pertains even though plaintiff is proceeding *pro se* in this matter. *Morales-Fernandez*, 418 F.3d at 1122. In addition, because plaintiff is proceeding *pro se*, I have construed her 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, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); *Andrews v. Heaton*, 483 F.3d 1070, 1076 (10<sup>th</sup> Cir. 2007); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)).

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

1. That the **Recommendation of United States Magistrate Judge** [#224] filed August 12, 2011, is **APPROVED AND ADOPTED** as an order of this court;

2. That **Defendants Cathie Holst and Adrienne Jacobson's Motion To Dismiss** [#217] filed July 29, 2011, is **GRANTED**;

3. That plaintiff's remaining claim under Title II of the Americans With Disabilities Act for prospective injunctive relief based on his photophobia is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction;

4. That judgment **SHALL ENTER** on behalf of defendants, Cathie Holst and Adrienne Jacobson, against plaintiff, John Nasious, on plaintiff's claim under Title II of the Americans With Disabilities Act for prospective injunctive relief based on his photophobia; provided, that the judgment as to this claim against these defendants shall be without prejudice;

5. That judgment further **SHALL ENTER** on behalf of defendants, State of Colorado – Office of the Governor Bill Ritter; Nurse Martha Mueller, Physician Health Partners; Dr. Barry Goldsmith, Physician Health Partners; Paula Frantz M.D. CMO, Colorado Dept. Of Corrections; Stephen Kreibs M.D. – Physician, Health Partners Agent of Record; P.A. Brian Webster, Physician Health Partners (Ft Myers, Fl); PA Tejeender Singh, Physician Health Partners; Aristedes Zavaras, Executive Director CDOC; Joseph Gary Fortunado D.O. Physician Health Partners; P.A. Joann Stock, Physician Health Partners; Nurse Nancy White, Physician Health Partners; Joseph Wermers, M.D., Physician Health Partners; CO St. Martin, Colorado Dept. of

Corrections; CO Regina Johnson, Medical Department Colorado Dept. of Corrections; Captain Weingardt, Colorado Dept. of Corrections; Lt Mark Bold, Colorado Dept. of Corrections; Lt Jason Zwirn, Colorado Dept. of Corrections; Cathie Holst, Manager of Correctional Legal Services, ADA Coordinator, AIC CDOC; Adrienne Jacobson, Legal Assistant AIC/ADA Coordinator CDOC; Sgt. Becky Ball, Colorado Dept. of Corrections; Lt. Jimerson, Colorado Dept. of Corrections; Ms. Haverly Libraian [sic], Colorado Dept. of Corrections; and John Doe and Jane Doe, all in their individual and official capacities, against plaintiff, John Nasious, in accordance with my **Order Concerning Recommendation of United States Magistrate Judge** [#201] filed June 29, 2011; provided, that the judgment as to the claims against these defendants shall be with prejudice; and

6. That defendants are **AWARDED** their costs, to be taxed by the Clerk of the Court pursuant to Fed.R.Civ.P. 54(d)(1) and D.C.COLO.LCivR 54.1.

Dated September 16, 2011, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge