

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

Civil Case No. 09-cv-01190-REB-BNB

JOHN J. POWERS,

Plaintiff,

v.

PETE HAUTZINGER, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Defendants.

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

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**Blackburn, J.**

This matter is matter before me on: (1) **Defendant Hautzinger's Motion To Dismiss Pursuant to F.R.Civ.P. 12(b)(6) [#36]**<sup>1</sup> filed November 9, 2009; (2) **Defendant Colorado Attorney General's Motion To Dismiss [#47]** filed December 14, 2009; and (3) the **Recommendation of United States Magistrate Judge [#85]** filed May 3, 2010. No objections to the recommendation have been filed and, therefore, 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 error, much less plain 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> “[#36]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing 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.

Since early April of this year, mail addressed to the plaintiff, John J. Powers, at his address of record routinely is returned as undeliverable because Powers no longer is at his address of record. On April 19, 2010, the magistrate judge issued an **Order To Show Cause** [#84] to Powers directing Powers to show cause, in writing, why this case should not be dismissed for failure to keep the court informed of his current address, in violation of D.C.COLO.LCivR 10.1M., and for failure to prosecute. Powers did not respond to the order to show cause. Powers' last filing in this case [#72] was received on March 23, 2010. This case must be dismissed based on Powers' failure to keep this court informed of his current address, in violation of D.C.COLO.LCivR 10.1M., and his failure to prosecute this action.

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

1. That the **Recommendation of United States Magistrate Judge** [#85] filed May 3, 2010, is **APPROVED AND ADOPTED** as an order of this court;

2. That this case is **DISMISSED** based on the plaintiff's failure to comply with D.C.COLO.LCivR 10.1M. and, under FED. R. CIV. P. 41(b), for failure to prosecute;

3. That **JUDGMENT SHALL ENTER** in favor of the defendants, Pete Hautzinger and the Attorney General of the State of Colorado, against the plaintiff, John J. Powers;

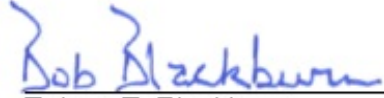
4. That **Defendant Hautzinger's Motion To Dismiss Pursuant to F.R.Civ.P. 12(b)(6)** [#36] filed November 9, 2009, is **DENIED** as moot;

5. That **Defendant Colorado Attorney General's Motion To Dismiss** [#47] filed December 14, 2009, is **DENIED** as moot; and

6. That the 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 August 23, 2010, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge