

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior Judge Zita Leeson Weinshienk

Civil Action No. 09-cv-01345-ZLW-CBS

RALPH LEFTHANDBULL,

Plaintiff,

v.

STEVE HARTLEY, et al.,  
DENNIS McKENNA,  
JOHN "SMOKEY" KURTZ,  
R. STEINBECK,  
TREA VOR WILLIAMS,  
JUAN MARTINEZ,  
TIMOTHY RITTER,  
P. SHAUFTER,  
L. WATKINS,  
KEN MOORE,  
LEONARD VIGIL,  
KRISTI MOORE, and  
RODNEY D. FOURACRE,

Defendants.

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ORDER

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The matter before the Court is the Motion To Dismiss (Doc. No. 24) filed by Defendants Steve Hartley, Philip Shaufler,<sup>1</sup> Larry Watkins, John "Smoky" Kurtz, Dennis Mckenna, Timothy Ritter, Kristi Moore, Robert Steinbeck and Trevor Williams. The motion was referred to Magistrate Judge Craig B. Shaffer pursuant to

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<sup>1</sup>Defendant Shaufler's name is misspelled as "Shaufter" in the Complaint's caption.

D.C.COLO.LCivR 72.1C. On April 2, 2010, the Magistrate Judge issued his Recommendation that the Motion To Dismiss be granted (Doc. No. 27), and that this action be dismissed in its entirety. No party filed objections to the Recommendation.

Having reviewed the record and the Magistrate Judge's Recommendation, the Court is satisfied "that there is no clear error on the face of the record."<sup>2</sup> Although Plaintiff did not file a response to the Motion To Dismiss, the Motion To Dismiss was served upon Plaintiff on October 26, 2009, at his current address of record, and the Court's November 5, 2009, Minute Order directing Plaintiff to respond to the Motion To Dismiss by December 4, 2009, also was served upon Plaintiff at his current address of record and has not been returned to the Court as undeliverable. Despite the lack of any response briefing, the Magistrate Judge's Recommendation sets forth an extremely thorough and well-reasoned analysis of Plaintiff's claims and of the arguments raised in the Motion To Dismiss. The Court agrees with, and accepts and adopts, the Recommendation in its entirety.

The Court notes that Defendants Leonard Vigil and Rodney D. Fouracre were previously dismissed from this action on August 17, 2009 (see Doc. No. 13). The Order dismissing Defendants Vigil and Fouracre did not specify whether those dismissals were with or without prejudice, and the Court now clarifies that defendant Vigil was dismissed without prejudice and Defendant Fouracre was dismissed with prejudice.

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<sup>2</sup>See Fed. R. Civ. P. 72(b) advisory committee's note; Summer v. Utah, 927 F.2d 1165, 1167 (10<sup>th</sup> Cir. 1991); Thomas v. Arn, 474 U.S. 140, 150 (1985).

Accordingly, it is

ORDERED that the Motion To Dismiss (Doc. No. 24) is granted, and Defendants Steve Hartley, Philip Shaufler, Larry Watkins, John "Smoky" Kurtz, Dennis Mckenna, Timothy Ritter, Kristi Moore, Robert Steinbeck and Trevor Williams are dismissed from this action in their official and individual capacities, with prejudice. It is

FURTHER ORDERED that Defendants Juan Martinez and Ken Moore are dismissed from this action without prejudice due to Plaintiff's failure to effect service within the time limit of Fed. R. Civ. P. 4(m), and pursuant to D.C. COLO.LCivR 41.1 for failure to prosecute. It is

FURTHER ORDERED that the dismissal of Defendant Leonard Vigil on August 17, 2009 (Doc. No. 13) was without prejudice, and the dismissal of Defendant Rodney D. Fouracre, also on August 17, 2009 (Doc. No. 13), was with prejudice. It is

FURTHER ORDERED that because no Defendants remain in the case, the Amended Complaint and cause of action are dismissed without prejudice as to Defendants Juan Martinez, Ken Moore, and Leonard Vigil, and with prejudice as to all other Defendants, the parties to pay their own costs and attorney's fees. It is

FURTHER ORDERED that a separate Judgment shall be entered pursuant to Fed. R. Civ. P. 58(a).

DATED at Denver, Colorado, this 12<sup>th</sup> day of May, 2010.

BY THE COURT:

A handwritten signature in blue ink that reads "Zita Leeson Weinsienk". The signature is written in a cursive style with a light blue background behind the text.

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ZITA LEESON WEINSHIENK, Senior Judge  
United States District Court