

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

Civil Case No. 09-cv-01704-REB-BNB

LAWRENCE W. LOGAN,

Plaintiff,

v.

MR. BUNCH, Correctional Officer,  
MR. POTTER, Correctional Officer,  
MR. SPROUL, Unit Manager, and  
MR. WILEY, Warden,

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 the following: (1) the plaintiff's **Instant Motion for Restraining Order** [#25]<sup>1</sup> filed September 30, 2009; (2) the plaintiff's **Motion for Investigation** [#37] filed November 30, 2009; (3) the plaintiff's **Motion To Appoint Counsel** [#41] filed December 28, 2009; (4) the **Defendants' Motion for Summary Judgment and Memorandum Brief in Support Thereof** [#57] filed March 20, 2010; and (5) the **Recommendation of United States Magistrate Judge** [#66] filed March 24, 2010. The magistrate judge recommends that the defendants' motion for summary judgment be granted. The plaintiff has not filed objections to the recommendation. Therefore, I review the recommendation only for plain error. ***See Morales-Fernandez***

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<sup>1</sup> “[#25]” 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.

**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.

When he filed his complaint, the plaintiff was an inmate at the United States Penitentiary, Administrative Maximum, in Florence, Colorado. He alleges that two of the individual defendants have place contaminants in his food, that he has been denied privileges and services in violation of his right to equal protection of the law, and that defendant Wiley has failed to take action against the other defendants. In his motion for restraining order [#25] the plaintiff makes similar allegations. The magistrate judge recommends that the defendants' motion for summary judgment [#57] be granted because the undisputed facts in the record demonstrate that the plaintiff has not exhausted his administrative remedies as to any of his claims as required by 42 U.S.C. § 1997e(a), or that he is entitled to tolling of the deadlines for exhaustion of administrative remedies. In this context, the plaintiff's other pending motions are moot.

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

1. That the **Recommendation of United States Magistrate Judge** [#66] filed March 24, 2010, is **APPROVED AND ADOPTED** as an order of this court;
2. That the plaintiff's **Instant Motion for Restraining Order** [#25] filed September 30, 2009, is **DENIED** as moot;
3. That the plaintiff's **Motion for Investigation** [#37] filed November 30, 2009, is **DENIED** as moot;

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<sup>2</sup> This standard pertains even though plaintiff is proceeding *pro se* in this matter. **Morales-Fernandez**, 418 F.3d at 1122.

4. That the plaintiff's **Motion To Appoint Counsel** [#41] filed December 28, 2009, is **DENIED** as moot;

5. That the **Defendants' Motion for Summary Judgment and Memorandum Brief in Support Thereof** [#57] filed March 20, 2010, is **GRANTED**;


6. That **JUDGMENT SHALL ENTER** in favor of the defendants, Mr. Bunch, Correctional Officer, Mr. Potter, Correctional Officer, Mr. Sproul, Unit Manager, and Mr. Wiley, Warden, against the plaintiff, Lawrence W. Logan;

7. 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; and

8. That this case is **DISMISSED**.

Dated August 23, 2010, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge