

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge William J. Martínez**

Civil Action No. 09-cv-01969-WJM-KLM

MICHAEL R. O'CONNOR,

Applicant,

v.

ANGEL MEDINA, Warden Limon Correctional Facility, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

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**ORDER SUSTAINING APPLICANT'S OBJECTION, REJECTING  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE, AND ORDERING  
PARTIES TO FILE STATUS REPORT BY DECEMBER 9, 2011**

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In this action, Applicant Michael R. O'Connor seeks review of his state court conviction for second degree murder. (ECF No. 10.) On February 9, 2011, the case was reassigned to the undersigned. (ECF No. 47.) It was then referred to Magistrate Judge Kristen L. Mix. (ECF No. 54.)

On July 6, 2011, Magistrate Judge Mix entered a Minute Order stating that the state court record was unavailable for transmission to this Court due to the pendency of a collateral matter filed by the Applicant with the Colorado Court of Appeals. (ECF No. 55.) The parties filed a Status Report on July 13, 2011 stating that they believed the appeal would be resolved in the fall of 2011. (ECF No. 56.)

On July 13, 2011, Magistrate Judge Mix entered a Recommendation recommending that this action be administratively closed until the collateral appeal was resolved by the Colorado Court of Appeals. (ECF No. 57.) Applicant filed a timely

objection to the Recommendation asking the Court to keep the case active as the appeal would likely be resolved soon. (ECF No. 58.)

The Court has learned that the Colorado Court of Appeals issued a decision on Applicant's appeal on August 18, 2011. The mandate was issued on October 20, 2011. It does not appear that Applicant has filed a petition for a writ of *certiorari* with the Colorado Supreme Court. As such, the Applicant's appeal before the Colorado state courts has been fully resolved.

Because the state court action is no longer pending, Applicant's Objection is SUSTAINED and the Recommendation is REJECTED as moot. The parties are ORDERED to file a Status Report for the Magistrate Judge's consideration not later than December 9, 2011, indicating when the state court record will be available for transmittal to this Court. The Magistrate Judge shall thereafter conduct such additional proceedings as are required by this Court's order of reference [ECF No. 54].

Dated this 28<sup>th</sup> day of November, 2011.

BY THE COURT:



William J. Martínez  
United States District Judge