

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 09-cv-01991-WYD-KMT

JACOB DANIEL OAKLEY, #123294,

Plaintiff,

v.

WILLIAM RICHTER #5, COPD BD. Of Discipline,

Defendant.

**ORDER AFFIRMING AND ADOPTING RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

THIS MATTER is before the Court on Defendant's Motion for Summary Judgment on Third Amended Complaint (ECF No. 135), filed May 13, 2011. The motion was referred to Magistrate Judge Kathleen M. Tafoya for a Recommendation pursuant to the Order of Reference dated January 19, 2010. Magistrate Judge Tafoya issued a Recommendation on January 10, 2012. Specifically, Magistrate Judge Tafoya recommends that the pending motion be granted and that Defendant Richter is entitled to summary judgment on Plaintiff's claims. (Recommendation at 10). The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

Magistrate Judge Tafoya advised the parties that written objections were due within fourteen (14) days after service of a copy of the Recommendation. (Recommendation at 10-11). Despite this advisement, no objections were filed to the

Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."¹ See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Magistrate Judge Tafoya's Recommendation is thorough, well reasoned and sound. I agree with Magistrate Judge Tafoya that the pending motion should be granted and that Defendant Richter is entitled to summary judgment on Plaintiff's claims for the reasons stated in both the Recommendation and this Order.

Based on the foregoing, it is

ORDERED that the Recommendation of United States Magistrate Judge Tafoya (ECF No. 140), filed January 10, 2012, is **AFFIRMED** and **ADOPTED**.

In accordance therewith, it is

FURTHER ORDERED that the Defendant's Motion for Summary Judgment on Third Amended Complaint (ECF No. 135), filed May 13, 2011, is **GRANTED**.

¹ Note, this standard of review is something less than a "clearly erroneous or contrary to law" standard of review, FED. R. CIV. P. 72(a), which in turn is less than a de novo review, FED. R. CIV. P. 72(b).

Defendant Richter is entitled to summary judgment on Plaintiff's claims.

Dated: January 30, 2012

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge