

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.

ARISTEDES W. ZAVARAS, Exe. Dir, D.O.C.,
SUSAN HOMES, Warden, CSP,
STEP 1 GRIEVANCE BD. JOHN OR JANE DOE # 1,
STEP 2 GRIEVANCE BD. JOHN OR JANE DOE #2,
STEP 3 GRIEVANCE BD. JOHN OR JANE DOE #3,
ANTHONY A. DESSESSARO, Grievance Board,
WILLIAM RICHTER #5, COPD BD. of Discipline,
POCHECHO #4, COPD BD. of Discipline,
JOHN OR JANE DOE # 6, Inmate Banking Chain of Command,
JOHN OR JANE DOE # 7, Inmate Banking Chain of Command,
JOHN OR JANE DOE # 8, Inmate Banking Chain of Command,
JOHN OR JANE DOE # 9, Inmate Banking Chain of Command, and
P. HUNTER, Inmate Banking Chain of Command,

Defendants.

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

THIS MATTER is before the Court on Plaintiff's "Declaration Under Penalty of Perjury and Prelim. Injunction Amended in One Motion" (docket #44), filed March 8, 2010. The motion was referred to Magistrate Judge Kathleen M. Tafoya for a Recommendation by Order of Reference dated January 19, 2010. Magistrate Judge Tafoya issued a Recommendation on March 16, 2010. Specifically, Magistrate Judge Tafoya recommends that the pending motion be denied. (Recommendation at 6.) 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 6-7.) 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 denied 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

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).

(docket #50), filed March 16, 2010, is **AFFIRMED** and **ADOPTED**.

In accordance therewith, it is

FURTHER ORDERED that the Plaintiff's "Declaration Under Penalty of Perjury and Prelim. Injunction Amended in One Motion" (docket #44), is **DENIED**.

Dated: May 17, 2010

BY THE COURT:

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