

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

Civil Case No. 09-cv-02363-REB-KLM

CHRISTOPHER CHASE,

Plaintiff,

v.

MARY COX,
ANTHONY DECESARO,
CASE MANAGER WATTS,
DOC STAFF MEMBER JOHN DOE #1, and
DOC STAFF MEMBER(S) JOHN AND/OR JANE DOE(S),
All defendants in their individual capacities,

Defendants.

**AMENDED ORDER OVERRULING OBJECTIONS TO AND ADOPTING
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

The matters before me are (1) the **Recommendation of a United States Magistrate** [#25], filed May 26, 2010; and (2) plaintiff's **Objection to Recommendation** [#26], filed June 11, 2010. I enter this amended order to correct clerical errors in the previous order [#27] entered July 2, 2010), overrule the objections, adopt the recommendation, and dismiss plaintiff's claims.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which objections have been filed, and have considered carefully the recommendation, objections, and applicable caselaw. Moreover, because plaintiff is proceeding *pro se*, I have construed his pleadings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See *Erickson v. Pardus***,

551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); **Andrews v. Heaton**, 483 F.3d 1070, 1076 (10th Cir. 2007); **Hall v. Belmon**, 935 F.2d 1106, 1110 (10th Cir. 1991) (citing **Haines v. Kerner**, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)). The recommendation is detailed and well-reasoned.¹ Contrastingly, plaintiff's objections are imponderous and without merit.

Therefore, I find and conclude that the arguments advanced, authorities cited, and findings of fact, conclusions of law, and recommendation proposed by the magistrate judge should be approved and adopted.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of a United States Magistrate** [#25] filed May 26, 2010, is **APPROVED AND ADOPTED** as an order of this court;
2. That plaintiff's **Objection to Recommendation** [#26] filed June 11, 2010, is **OVERRULED**;
3. That the **Motion To Dismiss** [#12] filed December 28, 2010, is **GRANTED**;
4. That plaintiff's claims against defendants, Mary Cox and Anthony Decesaro, are **DISMISSED WITH PREJUDICE**;
5. That plaintiff's claims against the defendants Doc Staff Member John Doe #1 and Doc Staff Members John and/or Jane Does, all Defendants in their individual

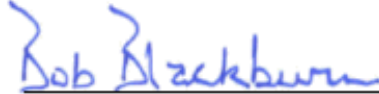
¹ Although some magistrate judges in this district have applied the factors set forth in **Ehrenhaus v. Reynolds**, 965 F.2d 916, 920 (10th Cir. 1992), to determine the propriety of a dismissal without prejudice that would operate effectively as a dismissal with prejudice due to the running of the applicable statute of limitations, *see, e.g., Walker v. University of Colorado Board of Regents*, 2007 WL 1793793 at *2 (D. Colo. March 5, 2007), *adopted*, 2007 WL 1793792 (D. Colo. June 19, 2007), those factors only truly make sense in the context of dismissal as a sanction. The magistrate judge here specifically considered what I perceive to be the correct precedents and explained why dismissal, although effectively barring refiling of plaintiff's claims, was appropriate in this instance. (**See Recommendation of United States Magistrate Judge** at 13-14 [#25], filed May 26, 2010.)

capacities, are **DISMISSED WITHOUT PREJUDICE** for failure to effect timely service of process pursuant to Fed.R.Civ.P. 4(m);

6. That this action is **DISMISSED WITHOUT PREJUDICE**.

Dated July 7, 2010, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge