

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Philip A. Brimmer**

Civil Action No. 09-cv-02886-PAB-MEH

TERRY VIGIL,

Plaintiff,

v.

POLLY WALTERS, RN,  
KARLIN WERNER, RN,  
DR. JERE SUTTON, Physician, and  
DR. LOUIS CABILING, Physician, each in their individual capacities,

Defendants.

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**ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION**

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This matter is before the Court on the Recommendation of United States Magistrate Judge Michael E. Hegarty filed on May 16, 2011 [Docket No. 86]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. *See also* 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on May 17, 2011. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[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”). In this matter, I have reviewed the Recommendation to

satisfy myself that there is “no clear error on the face of the record.”<sup>1</sup> See Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, I have concluded that the Recommendation is a correct application of the facts and the law. Accordingly, it is

**ORDERED** as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 86] is ACCEPTED.

2. The Motion for Summary Judgment [Docket No. 58] filed by defendants Letha Walter (incorrectly named in the Complaint as Polly Walters), Ernest Karlin (incorrectly named in the Complaint as Karlin Werner), and Louis Cabiling and the Motion for Summary Judgment [Docket No. 59] filed by defendant Jere Sutton are GRANTED IN PART AND DENIED IN PART.

3. Plaintiff’s Complaint is DISMISSED WITH PREJUDICE.

DATED June 10, 2011.

BY THE COURT:

s/Philip A. Brimmer  
PHILIP A. BRIMMER  
United States District Judge

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<sup>1</sup>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).