

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

Civil Action No. 10-cv-01345-PAB-MJW

WALTER L. HUERY,

Plaintiff,

v.

MS. POPE, C.D.O.C.,
DR. PAULA FRANTZ, CMO, PHP, C.D.O.C.,
NURSE RONDA KATZENMEYER, PHP-CHP, B.V.C.F.,
LAURENCE, THEODORE L. PHP, C.D.O.C., B.V.C.F.,
JOHN DOE, 1-10 PHP, CHP, and
JANE DOE, 1-10 PHP, CHP,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Michael J. Watanabe filed on July 11, 2011 [Docket No. 41]. 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 July 11, 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.”¹ 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. 41] is ACCEPTED.

2. Defendants’ Motion to Dismiss [Docket No. 29] is granted in part and denied in part. Any claim for damages against the defendants in their official capacities is dismissed. All claims against defendant Frantz are dismissed.

DATED August 3, 2011.

BY THE COURT:

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

¹This 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).