

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 10-cv-01374-CMA-BNB

RONALD HUTCHINSON,

Plaintiff,

v.

ANNIE HOLESTINE, Administrative Director, individually,
EILEEN NEWMAN, Case Manager Supervisor, individually,
PETER JENSEN, Case Manager, individually, and
LES GODWIN, Community Parole Officer, individually,

Defendants.

**ORDER AFFIRMING AND ADOPTING JANUARY 31, 2011 RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

The above-entitled and numbered civil action was referred to United States Magistrate Judge Boyd N. Boland pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) and Fed. R. Civ. P. 72(a) and (b). (Doc. #22). On January 31, 2011, the Magistrate Judge issued a Recommendation, recommending that *pro se* Plaintiff Ronald Hutchinson's claims against Defendant Peter Jensen be dismissed without prejudice for failure to prosecute, pursuant to D.C.COLO.LCivR 41.1. (Doc. #43 at 2). In particular, the Magistrate Judge noted the U.S. Marshal's prior unsuccessful attempt to serve Defendant Jensen and inability to obtain a forwarding address, as well as the Magistrate Judge's issuance of an Order to Show Cause why the claims against Jensen should not

be dismissed. In response to the Order to Show Cause, Plaintiff failed to provide an address where Jensen may be served. Accordingly, the Magistrate Judge issued the instant Recommendation.

On March 4, 2011, Plaintiff filed an objection to the Recommendation, stating that, due to his incarcerated status, he is unable to provide any further information regarding Jensen's whereabouts. (Doc. #55 at 1). Plaintiff also asserts that the U.S. Marshal is responsible for the failure to perfect service. (*Id.* at 2). While Plaintiff is correct that, pursuant to Fed. R. Civ. P. 4(c), the Court must order that service be made by a U.S. Marshal where a plaintiff is authorized to proceed *in forma pauperis*, Plaintiff bears the responsibility to provide the Court with a suitable address for service; the Court has no duty to investigate a named defendant's whereabouts.

Based on the foregoing, having conducted a *de novo* review of this matter, the Court agrees with the Magistrate Judge that dismissal without prejudice of Defendant Jensen is warranted and affirms and adopts the January 31, 2011 Recommendation of United States Magistrate Judge.

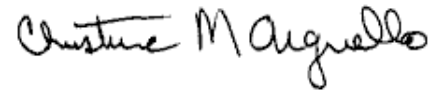
Accordingly, IT IS ORDERED THAT:

- (1) The January 31, 2011 Recommendation of United States Magistrate Judge Boyd N. Boland (Doc. #43) is GRANTED;
- (2) Plaintiff's Objection to Recommendation of United States Magistrate Judge (Doc. #55) is OVERRULED; and

(3) Plaintiff's claims against Defendant Peter Jensen are DISMISSED WITHOUT PREJUDICE.

DATED: March 11, 2011.

BY THE COURT:

A handwritten signature in black ink that reads "Christine M. Arguello". The signature is written in a cursive style with a large initial 'C' and 'A'.

CHRISTINE M. ARGUELLO
United States District Judge