

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

Civil Action No. 10-cv-02050-CMA-KLM

JOSE MEDINA ESCOBAR,

Plaintiff,

v.

MAJOR C. HOLDITCH,
SERGEANT ROBERTS,
SERGEANT HALSTEAD,
SERGEANT P. BINDER,
C/O CRIDER,
C/O FERGUSON,
C/O MARTIN,
C/O COOPER,
C/O K. VIALPONDO,
C/O ARCHULETA,
C/O A. LOMBARD,
SERGEANT POOL,
LIEUTENANT T. CHAVEZ,
DOCTOR J. WRIGHT, and
NURSE PRACTITIONER K. BOYD,

Defendants.

**ORDER ADOPTING AND AFFIRMING FEBRUARY 1, 2012
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

The above-entitled and numbered civil action was referred to United States Magistrate Judge Kristen L. Mix pursuant to 28 U.S.C. § 636. (Doc. # 10.) On February 1, 2012, the Magistrate Judge issued a Recommendation (Doc. # 84), advising that the Defendants' Motion for Summary Judgment (Doc. # 65) be granted and that "this action

count as a strike against Plaintiff pursuant to 28 U.S.C. § 1915(g) based on the frivolous nature of the pursued claims.” The Recommendation stated that “the parties shall have fourteen (14) days after service of this Recommendation to serve and file any written objections in order to obtain reconsideration by the District Judge to whom this case is assigned.” (Doc. # 84 at 32-33.) It also advised the parties that “failure to serve and file specific, written objections waives de novo review of the Recommendation by the District Judge” (*Id.* at 33.) Neither party has filed objections.

“In the absence of timely objection, the district court may review a magistrate’s report under any standard it deems appropriate.” *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (observing 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”)). Having reviewed the Recommendation, the Court discerns no clear error on the face of the record and determines that the Magistrate Judge’s reasoning is sound.

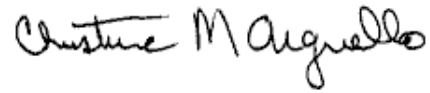
Accordingly, it is hereby ORDERED that the Recommendation of United States Magistrate Judge Kristen L. Mix (Doc. # 84) is AFFIRMED and ADOPTED. Pursuant to the Recommendation, it is

FURTHER ORDERED that Defendants’ Motion for Summary Judgment (Doc. # 65) is GRANTED. It is

FURTHER ORDERED that this action is DISMISSED WITH PREJUDICE. It is
FURTHER ORDERED that dismissal of this action constitutes a strike against
Plaintiff under 28 U.S.C. § 1915(g) for pursuing frivolous claims.

DATED: February 22, 2012

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge