

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

Civil Action No. 10-cv-02172-CMA-KLM

BONNER ROBINETTE, and
SHIRLEY ROBINETTE,

Plaintiffs,

v.

SYDNEY "DUKE" SCHIRARD, Sheriff, La Plata County Colorado,
in his individual and professional capacities,
ROBIN HARRINGTON, Under Sheriff, in her individual and professional capacities,
BOBBIE FENDER, in his individual and professional capacities,
AMBER FENDER, in her individual and professional capacities,
STEVE SCHMIDT, in his individual and professional capacities,
SEAN SMITH, in his individual and professional capacities,
MARTIN PETRIK, in his individual and professional capacities,
ROBERT PHIPPEN, in his individual and professional capacities,
CHARLES HAMBY, in his individual and professional capacities,
SHELLY WILLIAMS, in her individual and professional capacities,
TODD HUTCHINS, in his individual and professional capacities,
CHRIS BURKE, in his individual and professional capacities,
MATT WEBB, in his individual and professional capacities,
BRENDA TEBRINK, in her individual and professional capacities,
LUCIA SCHIRARD, in her individual and professional capacities,
RICHARD GRAEBER, in his individual and professional capacities,
PAUL KOSNIK, County Attorney, in his individual and professional capacities,
KELLIE HOTTER, in her individual and professional capacities,
WALLY WHITE, Past County Commissioner,
in his individual and professional capacities,
BOBBIE LIEB, Past and Present County Commissioner,
in his individual and professional capacities,
BOARD OF COUNTY COUNTY COMMISSIONERS,
GWEN LACHELT, Member of the Present Board of County Commissioners,
in her individual and professional capacities,
JULIE WESTENDOR, Member of the Present Board of County Commissioners,
in her individual and professional capacities, and
PHIL CAMPBELL, Head of 911 Dispatch, in his individual and professional capacities,

Defendants.

**ORDER ADOPTING AND AFFIRMING JANUARY 10, 2014
RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge Kristen L. Mix pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72. (Doc. # 20.) On February 11-18, 2014, Judge Mix issued three Recommendations on a number of motions. (Doc. ## 139, 151, 155, 176, 190, 202.) In those Recommendations, Judge Mix found as follows:

- That Motion to Dismiss (Doc # 155) be granted and that Defendants Phil Campbell and Lucia Schirard be dismissed from this lawsuit. (Doc. # 208.)
- That Motion to Dismiss (Doc #139) be granted in part and denied in part and that further Motions to Dismiss (Doc ## 151, 176, 190) be granted. (Doc. # 209)¹
- That Motion to Amend (Doc. # 210) be denied and that Plaintiffs not be permitted to amend the Second Amended Complaint to add Randey Robinette as a plaintiff. (Doc # 211)

Both parties filed timely objections to Judge Mix's Recommendation. (Doc. ## 213, 214.) As required by 28 U.S.C. § 636(b), the Court has therefore conducted a *de novo* review of this matter, including carefully reviewing all relevant pleadings, the Reports and Recommendations, and the parties' Objections to the Reports and Recommendations. Based on this *de novo* review, the Court concludes that the Magistrate Judge's Reports and Recommendations are correct and are not called into question by the parties' objections.

¹ As Judge Mix noted, this would mean that all claims against Defendants Schirard, Bobbie Fender, Amber Fender, Schmidt, Hamby, Smith, Harrington, Webb, Phippen, Williams, Burke, Lieb, Lachelt, Westendor, Kosnik, Tebrink, Hutchins, Graeber, and the past and present Board of County Commissioners of La Plata County be dismissed with prejudice except for the following: Claim 1 (§ 1983 due process claim) against Defendants Bobbie Fender, Amber Fender, Schmidt, Hamby, and Smith; and Claim 7 (§ 1983 conspiracy) against Defendants Bobbie Fender, Amber Fender, Schmidt, and Smith.

Accordingly, it is hereby ORDERED that Plaintiffs' and Defendants' objections (Doc. ## 213, 214) are OVERRULED, it is

FURTHER ORDERED that the Recommendations of United States Magistrate Judge Kristen L. Mix (Doc. ## 208, 209, 211) are AFFIRMED and ADOPTED as an Order of this Court.

Pursuant to the Recommendations, it is FURTHER ORDERED THAT:

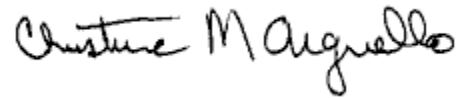
1. the Motion to Dismiss (Doc. # 155) is GRANTED and Defendants Phil Campbell and Lucia Schirard are DISMISSED from this lawsuit;
2. the Motion to Dismiss (Doc. #139) is GRANTED IN PART and DENIED IN PART and the other Motions to Dismiss (Doc. ## 151, 176, 190) are GRANTED, which means that all claims against Defendants Schirard, Bobbie Fender, Amber Fender, Schmidt, Hamby, Smith, Harrington, Webb, Phippen, Williams, Burke, Lieb, Lachelt, Westendor, Kosnik, Tebrink, Hutchins, Graeber, and the past and present Board of County Commissioners of La Plata County be dismissed with prejudice except for the following: Claim 1 (§ 1983 due process claim) against Defendants Bobbie Fender, Amber Fender, Schmidt, Hamby, and Smith; and Claim 7 (§ 1983 conspiracy) against Defendants Bobbie Fender, Amber Fender, Schmidt, and Smith;
3. the Motion to Amend (Doc. # 210) is DENIED.

IT IS FURTHER ORDERED that the caption on all subsequent filings shall reflect the removal of Sydney Schirard, Robin Harrington, Robert Phippen, Shelly Williams, Todd Hutchins, Chris Burke, Matt Webb, Brenda Tebrink, Lucia Schirard, Richard

Graeber, Paul Kosnik, Bobbie Lieb, Gwen **[Lachelt]** Lieb, Julie Westendor, and Phil Campbell as Defendants in this case.

DATED: March 25, 2014

BY THE COURT:

A handwritten signature in black ink, reading "Christine M. Arguello". The signature is written in a cursive, flowing style.

CHRISTINE M. ARGUELLO
United States District Judge