

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

Civil Action No. 10-cv-02302-PAB-KMT

JOHN M. MEYER, JR.,

Plaintiff,

v.

MR. SINGH (Individual and Official Capacity) DRDC Medical Doctor,
MR. FERGUSON (Individual and Official Capacity) Sgt., DRDC Infirmary,
McMILLIN (Individual and Official Capacity) Sgt., CTCF CH 3,
MS. SHOEMAKER (Individual and Official Capacity) Director Medical, CTCF,
MR. MEIGGS (Individual and Official Capacity) Intake Sgt., CTCF,
K. MITCHELL (Individual and Official Capacity) Physician's Assistant (PA),
MR. HIEDENTHAUL (Individual and Official Capacity) Acting Lt., CH 3,
BETTY STOCKMANN (Individual and Official Capacity) Acting Reg. Nurse,
JOHN DOE 1 (Individual and Official Capacity) Correctional Officer, CH 4,
JOHN DOE 2 (Individual and Official Capacity) C/O, CTCF Reception,
CORRECTIONAL HEALTH PARTNERS (Individual and Official Capacity), Provider,
MS. BAELIN (Individual and Official Capacity) Acting Nurse, DRDC,
MS. GOODWIN (Individual and Official Capacity) Acting Nurse, DRDC,
DR. DARROW (Individual and Official Capacity) Medical Doctor, CTCF, and
MS. HOEKSTRA (Individual and Official Capacity) Physician's Assistant,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Kathleen M. Tafoya filed on April 27, 2011 [Docket No. 74]. 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 April 27, 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. 74] is ACCEPTED.

2. Defendant Correctional Health Partners' Motion to Dismiss Plaintiff's Amended Complaint [Docket No. 34] is GRANTED.

3. The Motion to Dismiss Plaintiff's Prisoner Complaint (Doc. #11) filed by defendants Singh, Ferguson, McMillan, Shoemaker, Meiggs, Mitchell, Heidenthal, Stockman, Goodwin, and Hoekstra [Docket No. 40] is GRANTED IN PART and DENIED IN PART. The motion is denied as to Plaintiff's claim for monetary damages against defendants Meiggs and Ferguson and granted in all other respects.

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).

4. Plaintiff's Motion for Leave to File an Amended Complaint [Docket No. 51] is GRANTED IN PART and DENIED IN PART. The motion is granted as to plaintiff's proposed allegations against defendants Meiggs and Ferguson and denied in all other respects. Plaintiff shall file a second amended complaint containing only the allegations exactly as they appear in Docket No. 51 ¶¶ 1 and 4.

5. Plaintiff's "Order to Show Cause for a Preliminary Injunction" [Docket No. 54] is DENIED.

6. All claims against defendant Baelin are dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m) for lack of service.

DATED June 9, 2011.

BY THE COURT:

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