

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 10-cv-02454-REB-MJW

STEVEN ANTHONY VALLES,

Plaintiff,

v.

B. CARNES, #195,
W. KEAN,
MIKE MILLER, and
G. EARTHMAN,

Defendants.

**ORDER ADOPTING RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

This matter is before me on the following: (1) the **Motions To Dismiss Pursuant To F.R.Civ.P. 12(b) by Defendants Carnes, Kean and Miller** [#27]¹ filed January 24, 2011; (2) defendant Geraldine Earthman's **Motion To Dismiss** [#36] filed February 10, 2011; and (3) the magistrate judge's **Recommendation On Motions To Dismiss Pursuant To F.R.Civ.P. 12(b) by Defendants (Docket No. 27) and Motion To Dismiss (Docket No. 36)** [#54] filed August 4, 2011. No party has filed objections to the recommendation. I approve and adopt the recommendation and grant both motions to dismiss.

Because the plaintiff is proceeding *pro se*, I have construed his pleadings and

¹ “[#27]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

other filings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991).

Because no party filed objections to the recommendation, I review the recommendation only for plain error. **See *Morales-Fernandez v. Immigration & Naturalization Service***, 418 F.3d 1116, 1122 (10th Cir. 2005).² Finding no error, much less plain error, in the magistrate judge's recommended disposition, I approve and adopt the recommendation.

The plaintiff's complaint concerns a traffic stop, his arrest, and the alleged loss of his property after his truck and the contents of the truck were seized by the police after the arrest of the plaintiff. Addressing the motions to dismiss, the magistrate judge details correctly the applicable legal standards and applies those standards correctly to the plaintiff's allegations. Based on this analysis, the magistrate judge's recommendation that the motions to dismiss be granted is correct. I note that in a previous order [#7], the court dismissed the plaintiff's claims against defendants David Arcady, and the Mesa County Sheriffs Dept.

THEREFORE, IT IS ORDERED as follows:

1. That the magistrate judge's **Recommendation On Motions To Dismiss Pursuant To F.R.Civ.P. 12(b) by Defendants (Docket No. 27) and Motion To Dismiss (Docket No. 36) [#54]** filed August 4, 2011, is **APPROVED** and **ADOPTED** as an order of this court;

² This standard pertains even though plaintiff is proceeding *pro se* in this matter. ***Morales-Fernandez***, 418 F.3d at 1122.

2. That the **Motions To Dismiss Pursuant To F.R.Civ.P. 12(b) by Defendants Carnes, Kean and Miller** [#27] filed January 24, 2011, is **GRANTED**;

3. That defendant Geraldine Earthman's **Motion To Dismiss** [#36] filed February 10, 2011, is **GRANTED**;

4. That this case is **DISMISSED** with prejudice;

5. That judgment **SHALL ENTER** in favor of the defendants, B. Carnes, #195, W. Kean, Mike Miller, G. Earthman, David Arcady, and Mesa County Sheriffs Dept., against the plaintiff, Steven Anthony Valles, on all claims for relief and causes of action asserted in the complaint [#4] filed November 3, 2010;

6. That defendants are **AWARDED** their costs, to be taxed by the Clerk of the Court pursuant to Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1; and

7. That this case is **CLOSED**.

Dated September 19, 2011, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge