

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

Civil Action No. 10-cv-02534-CMA-KMT

KEITH FRAZIER,

Plaintiff,

v.

SUSAN BARKER, Librarian, BCCF,

Defendant.

**ORDER ADOPTING AND AFFIRMING FEBRUARY 11, 2013
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge Kathleen M. Tafoya pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72. (Doc. # 9.) On February 11, 2013, Judge Tafoya issued a Recommendation, advising that Defendant's Motion for Summary Judgment (Doc. # 76) be granted. (Doc. # 96 at 11.) The Recommendation stated that "[w]ithin fourteen days after service of a copy of the Recommendation, any party may serve and file written objections" (*Id.*) It also informed the parties that "[f]ailure to make timely objections may bar *de novo* review by the district judge of the magistrate judge's proposed findings and recommendations" (*Id.* at 11-12.)

No 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 and the filings to which it pertains, the Court discerns no clear error on the face of the record and finds that Judge Tafoya's reasoning is sound.

Accordingly, it is hereby ORDERED that the Recommendation of United States Magistrate Judge Kathleen M. Tafoya (Doc. # 96) is AFFIRMED and ADOPTED as an Order of this Court. Pursuant to the Recommendation, it is

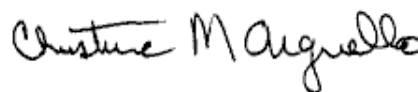
FURTHER ORDERED that Defendant's Motion for Summary Judgment (Doc. # 76) is GRANTED, and the claims against Defendant are DISMISSED WITH PREJUDICE. It is

FURTHER ORDERED that, pursuant to the certification procedure of 28 U.S.C. § 1915(a)(3), any appeal from this Order would not be taken in good faith and, therefore, *in forma pauperis* status is DENIED for purposes of appeal. If Plaintiff files a notice of appeal, he must pay the full \$455 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within 30 days of the Court's final order in accordance with Fed. R. App. P. 24. Finally, it is

FURTHER ORDERED that the case is now DISMISSED WITH PREJUDICE IN ITS ENTIRETY.

DATED: March 05, 2013

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge