

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 10-cv-02535-WJM-MEH

LEONCIO MCDARIS BALD EAGLE,

Plaintiff,

v.

SUSAN JONES,
MELODY BENALDI,
JOHNNY QUINTANNA,
MICHAEL TONY YOUNG,
ROBERT GONZALES,
GRETCHEN,
ALICE LEIHMAN,
OWENS,
CARRIE HERMAN,
CASSIE,
MONICA GONZALES,
ANGIE RAMIREZ,
NIKKI MACANERAS,
JENNIFER VEGIL,
SARA JORDAN,
MARLA RAY,
ANGIE STRICKLAND,
DESREA PADILLA,
JONATHAN JIMMY HAWTHORNE, and
PAUL MALCOLM ZEPHYR,

Defendants.

**ORDER AFFIRMING MAY 19, 2011 RECOMMENDATION AND GRANTING
DEFENDANTS' MOTION TO DISMISS OR FOR SUMMARY JUDGMENT**

This matter is before the Court on the May 19, 2011 Recommendation by United States Magistrate Judge Michael E. Hegarty that Defendant's Motion to Dismiss Pursuant to Fed. Civ. R. P. 12(b)(6) or for Summary Judgment (ECF No. 21) be

GRANTED, and that Plaintiff's Complaint be dismissed in its entirety for failure to exhaust his administrative remedies. (ECF No. 26.) The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen days after being served with a copy of the Recommendation. (ECF No. 26 at 2 n.1.) Despite this advisement, no objections to the Magistrate Judge's Recommendation were filed by either party. "In the absence of timely objection, the district court may review a magistrate . . . [judge'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) (stating 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").

The Court concludes that the Magistrate Judge's thorough and comprehensive analyses and recommendations are correct and that "there is no clear error on the face of the record." See Fed. R. Civ. P. 72(b) advisory committee's note. Therefore, the Court hereby ADOPTS the Report of the United States Magistrate Judge as the findings and conclusions of this Court.

Accordingly, it is hereby ORDERED that the Recommendation of the United States Magistrate Judge (ECF No. 26), filed April 19, 2011, is ACCEPTED. For the reasons cited therein, Defendants' Motion to Dismiss Pursuant to Fed. Civ. R. P.

12(b)(6) or for Summary Judgment (ECF No. 21) is GRANTED and this case is DISMISSED. The clerk shall enter judgment in favor of Defendants.

Dated this 13th day of June, 2011.

BY THE COURT:



William J. Martínez
United States District Judge