

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

Civil Case No. 10-cv-02559-REB-KLM

NICKY L. SMITH,

Plaintiff,

v.

CPT. SCOTT GIBSON,

Defendant.

---

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

---

**Blackburn, J.**

The matter before me is the **Recommendation of United States Magistrate Judge** [#56]<sup>1</sup> filed July 18, 2012. No objections having been filed to the recommendation, I review it only for plain error. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10<sup>th</sup> Cir. 2005).<sup>2</sup> Finding no such error in the magistrate judge's recommended disposition, I find and conclude that the recommendation should be approved and adopted.

---

<sup>1</sup> “[#56]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.


<sup>2</sup> This standard pertains even though plaintiff is proceeding *pro se* in this matter. *Morales-Fernandez*, 418 F.3d at 1122. In addition, because plaintiff is proceeding *pro se*, I have construed his pleadings 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, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); *Andrews v. Heaton*, 483 F.3d 1070, 1076 (10<sup>th</sup> Cir. 2007); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)).

**THEREFORE, IT IS ORDERED** as follows:

1. That the **Recommendation of United States Magistrate Judge** [#56] filed July 18, 2012, is **APPROVED AND ADOPTED** as an order of this court;
2. That **Defendant's Motion For Summary Judgment** [#36] filed October 31, 2011, is **GRANTED**;
3. That plaintiff's claims against defendant are **DISMISSED WITH PREJUDICE**;
4. That judgment **SHALL ENTER** on behalf of defendant Cpt. Scott Gibson against plaintiff Nicky L. Smith on all claims for relief and causes of action; provided, that the judgment shall be with prejudice; and
5. That defendant is **AWARDED** his 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.

Dated August 24, 2012, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge