

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

Civil Action No. 10-cv-2691-WJM-CBS

DOUGLAS BURNS,

Plaintiff,

v.

ROB OR JENNIFER HUSS,  
RN ERIN WOLFF,  
LT. M. MEEHAN,  
TED LAURENCE, PA.,  
DR. ASSEN,  
DR. VIHIL,  
P.A. TEJINDER SINGH,  
NURSE AND P.A. S JOHN & JANE DOES AT DWCF INFIRMARY,  
DR. JEFF CLEMENS, ST MARY CORWIN,  
FERNANDEZ A. HENRIQUE J. MD. ST MARY CORWIN,  
CLINICAL SERVICES FOR COLO. DEPT. OF CORRECTIONS,  
KELLY WASKO,  
PERSON ASSIGNED TO DOUGLAS BURNS HEALTH CARE,  
JANE DOE NURSE AT LA VISTA CORRECTIONAL FACILITY,  
JOHN OR JANE DOE FOR THE LA VISTA CORRECTIONAL FACILITY CLINICAL  
SERVICES,  
NURSES AND P.A.S ON THE SWING SHIFT AT THE DENVER WOMENS PRISON,  
and  
JANE DOES AT DENVER WOMENS CORRECTIONAL FACILITY

Defendants.

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**ORDER ADOPTING APRIL 29, 2013 RECOMMENDATION OF MAGISTRATE JUDGE  
AND GRANTING PARTIAL MOTION TO DISMISS**

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This matter is before the Court on the April 29, 2013 Recommendation of United States Magistrate Judge Craig B. Shaffer (the "Recommendation") (ECF No. 116) that Defendants Meehan, Laurence, Assen, Vahil, Singh, and Wasko's Partial Motion to Dismiss, joined by Defendant Wolf (ECF No. 87, Joinder ECF Nos. 92, 94) be granted.

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. 116, at 25-26.) Despite this advisement, no objections to the Magistrate Judge's Recommendation have to date been filed by either party.

The Court concludes that the Magistrate Judge's analysis was thorough and sound, and that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."); see also *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) ("In the absence of timely objection, the district court may review a magistrate's report under any standard it deems appropriate.").

In accordance with the foregoing, the Court ORDERS as follows:

- (1) The Magistrate Judge's Recommendation (ECF No. 116) is ADOPTED in its entirety;
- (2) Defendants Meehan, Laurence, Assen, Vahil, Singh, and Wasko's Partial Motion to Dismiss, Joined by Defendant Wolff (ECF No. 87) is GRANTED;
- (3) Plaintiff's claims for retrospective declaratory and injunctive relief are hereby DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted;
- (4) Plaintiff's claims for prospective declaratory and injunctive relief are DISMISSED as MOOT;

- (5) The Clerk of the Court shall terminate Defendants Rob Huss and Jennifer Huss as Defendants in this action;
- (6) Defendants Wolff and Meehan and Claim 2 are DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted;
- (7) Defendant Vahil and Claim 3 are DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted;
- (8) Defendants Laurence, Assen, and Singh are DISMISSED WITH PREJUDICE from that portion of Plaintiff's Third Claim for relief that alleges a violation of Plaintiff's Fourteenth Amendment due process rights;
- (9) Plaintiff's Fourth Claim for relief is DISMISSED WITH PREJUDICE for failure to state a claim upon which relief can be granted;
- (10) John and Jan Doe Defendants "Nurse and P.A.s John & Jane Does at DWCF Infirmary, Person Assigned to Douglas Burns Health Care, Jane Doe Nurse at La Vista Correctional Facility, John or Jane Doe for the Law Vista Correctional Facility Clinical Services, Nurses and P.A.s on the Swing Shift at the Denver Womens Prison, and Jane Does at Denver Womens Correctional Facility" and Plaintiff's Claims 7 and 8 are DISMISSED WITHOUT PREJUDICE;
- (11) This action shall proceed on the following claims:
  - (A) that portion of Claim 3 that alleges an Eighth Amendment Violation against Defendants Ted Laurence, P.A., Dr. Assen, and Tejinder Singh;
  - (B) Claim 5 against Defendant Dr. Jeff Clemens; and
  - (C) Claim 7 against Defendant Henrique A. Fernandez, M.D.

Dated this 24<sup>th</sup> day of May, 2013.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "William J. Martinez", written over a horizontal line.

William J. Martinez  
United States District Judge