

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

Civil Action No. 10-cv-03052-CMA-MJW

JACOB DANIEL OAKLEY,

Plaintiff,

v.

THE ESTATE OF TOM CLEMENTS, on behalf of  
TOM CLEMENTS, deceased, in his official and individual capacities  
as the Executive Director of the Colorado Department of Corrections; and  
TRAVIS TRANI, in his official capacity as the Warden of the Colorado  
State Penitentiary and the Centennial Correctional Facility,

Defendants.

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**ORDER AFFIRMING July 18, 2013 RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

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This matter is before the Court on the July 18, 2013 Recommendation by United States Magistrate Judge Michael J. Watanabe that Defendants' Motion to Dismiss Second Amended Complaint (Doc. # 113) be denied. (Doc. # 127.) 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 (14) days after being served with a copy of the Recommendation. (Doc.

# 127 at 22.) Despite this advisement, no objections to Magistrate Judge Watanabe's Recommendation were filed by either party.<sup>1</sup>

“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 has reviewed all the relevant pleadings concerning Defendants' Motions to Dismiss and the Recommendation. Based on this review, the Court concludes that Magistrate Judge Watanabe's thorough and comprehensive analyses and recommendations are correct and that “there is no clear error on the face of the record.” Fed. R. Civ. P. 72 advisory committee's note. Therefore, the Court ADOPTS the Recommendation of Magistrate Judge Watanabe as the findings and conclusions of this Court.

Accordingly, it is ORDERED that the Recommendation of the United States Magistrate Judge (Doc. # 127) is AFFIRMED and ADOPTED. It is

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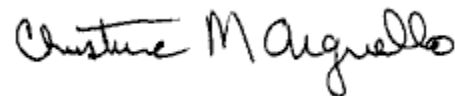
<sup>1</sup> On the day objections were due, Defendant Trani, through the Colorado Attorney General, filed a motion to dismiss the claims against Defendant Clements in his individual capacity, and in the alternative, requested an extension of time to file objections that now-deceased Defendant Clements may have. (Doc. # 128.) The Court denied the motion to dismiss, but gave the Estate of Tom Clements seven days to file objections. (Doc. # 133.) Defendant Trani again filed a motion requesting an additional extension of time, (Doc. 134), which motion the Court addresses at the end of this Order.

FURTHER ORDERED that Defendants Motion to Dismiss Second Amended Complaint (Doc. # 113), be DENIED WITHOUT PREJUDICE. (See Doc. # 127.) It is

FURTHER ORDERED that Defendant Trani's Motion for Extension of Time to File Objections (Doc. # 134), be DENIED without prejudice. Within 30 days of the establishment of the Estate of Tom Clements in state court, the Estate may file a motion for reconsideration of this Order setting forth any objections to Judge Watanabe's report and recommendation that relate to the claims against Mr. Clements, in his individual capacity.

DATED: August 15, 2013

BY THE COURT:

A handwritten signature in black ink that reads "Christine M. Arguello". The signature is written in a cursive style with a horizontal line underneath the name.

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CHRISTINE M. ARGUELLO  
United States District Judge