

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 11-cv-00196-WYD-CBS

LOUIS E. TILLMAN,

Plaintiff,

v.

TIMOTHY R. MURPHY; and
MHC KENWORTH,

Defendants.

**ORDER AFFIRMING AND ADOPTING
MAGISTRATE JUDGE'S RECOMMENDATION**

THIS MATTER is before the Court on Defendants' Motion for Summary Judgment [DE-67]. The Court referred the motion to Magistrate Judge Craig B. Shaffer for a recommendation, which he issued on September 5, 2012 [DE-46]. Magistrate Judge Shaffer recommends that the Court grant the motion for summary judgment and enter judgment in favor of Defendants. Plaintiff filed a two sentence "Notice of Objection and Appeal" in response to Magistrate Judge Shaffer's recommendation that merely indicates that Plaintiff had been denied discovery. [DE-73]. Plaintiff, however, never raised this issue with Magistrate Judge Shaffer. Rather, the first time he mentioned a denial of discovery was in his objection to the recommendation, which is too late. *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir.1996) ("Issues raised for the first time in objections to the magistrate judge's recommendation are deemed waived."). Having reviewed the matter *de novo* in an abundance of caution, I will affirm and adopt Magistrate Judge

Shaffer's thorough recommendation. Accordingly, it is

ORDERED that the Recommendation of United States Magistrate Judge Craig B. Shaffer dated September 5, 2012 [DE-46] is **AFFIRMED and ADOPTED**. In accordance therewith, it is

FURTHER ORDERED that Defendants' Motion for Summary Judgment [DE-67] is **GRANTED** and judgment will be entered in favor of Defendants and against Plaintiff. Each party to bear his or its own costs and attorney fees. It is

FURTHER ORDERED that Plaintiff's Objection [DE-73] is **OVERRULED**.

Dated: October 4, 2012

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge