

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

Civil Case No. 11-cv-00630-REB-KLM

JOSHUA E. WINGFIELD,

Plaintiff,

v.

S.O.R.T. SGT. CLARK,  
S.O.R.T. DEPUTY BRIESKE,  
S.O.R.T. DEPUTY REID,  
S.O.R.T. DEPUTY WOODS, and  
FOUR UNKNOWN S.O.R.T. DEPUTIES, under Sgt. Clarks [*sic*] command on 2-23-11  
who participated in the use force

Defendants.

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

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**Blackburn, J.**

This matter is before me on the following: (1) defendants' **Motion for Summary Judgment on Complaint** [#45]<sup>1</sup> filed May 14, 2012; and (2) the **Recommendation of United States Magistrate Judge** [#56] filed September 4, 2012. I approve and adopt the recommendation and grant the motion for summary judgment.

The plaintiff is acting *pro se*. Therefore, I construe his filings generously and with the leniency due pro se litigants, 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 (10th Cir. 2007); *Hall v. Belmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991) (citing *Haines v.*

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<sup>1</sup> “[#45]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

**Kerner**, 404 U.S. 519, 520-21 (1972)).

Because the plaintiff did not file objections 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 error, much less plain error, in the recommended disposition of this case, I find and conclude that the recommendation should be approved and adopted as an order of this court.

In his compliant [#1], the plaintiff alleges that the defendants used excessive force against the plaintiff while the plaintiff was incarcerated in the Arapahoe County Detention Facility. In their motion for summary judgment [#45], the defendants present evidence demonstrating the nature of the incident in question. The plaintiff did not respond to the motion for summary judgment. However, when considering the motion for summary judgment, the magistrate judge considered, appropriately, the plaintiff's sworn compliant [#1] as part of the relevant body of evidence. Viewing all of the evidence in the record in the light most favorable to the plaintiff, no reasonable finder of fact could find in favor of the plaintiff on any of his claims. The defendants are entitled to summary judgment.

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

1. That the **Recommendation of United States Magistrate Judge** [#15] filed May 4, 2012, is **APPROVED AND ADOPTED** as an order of this court;
2. That **Defendants' Motion For Summary Judgment** [#45] filed May 14, 2012 is **GRANTED**;
3. That under FED. R. CIV. P. 58, judgment **SHALL ENTER** in favor of the

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<sup>2</sup> This standard pertains even though plaintiff is proceeding *pro se* in this matter. **Morales-Fernandez**, 418 F.3d at 1122.

defendants, S.O.R.T. Sgt. Clark, S.O.R.T. Deputy Brieske, S.O.R.T. Deputy Reid, S.O.R.T. Deputy Woods, and the Four Unknown S.O.R.T. Deputies under Sgt Clarks [sic] command on 2-23-11 who participated in the use force, and against the plaintiff, Joshua E. Wingfield, on all claims asserted in the complaint [#1]; and

4. That defendants are **AWARDED** their 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 January 11, 2013 at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge