

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

Civil Action No. 11-cv-01372-CMA-KLM

ALEX OBANDO,

Plaintiff,

v.

ARISTEDES W. ZAVARAS, DOC Executive Director,
TOM CLEMENTS, DOC Executive Director,
SUSAN JONES, CSP Warden,
MICHELLE NYCZ, Classification Chairperson,
DAN DENNIS, Committee Member,
JOHN DOE, CSP Assistant Administrative Head, and
KEVIN L. MILYARD,

Defendants.

**ORDER ADOPTING AND AFFIRMING OCTOBER 30, 2012
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge Kristen L. Mix pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72. (Doc. # 7.) On October 30, 2012, Judge Mix issued a Recommendation, advising that: Defendants' Motion to Dismiss or Motion for Summary Judgment (Doc. # 48) be granted; Plaintiff's Motion for Partial Summary Judgment (Doc. # 50) be denied as moot; and Plaintiff's Second Amended Complaint (Doc. # 39) be dismissed without prejudice. (Doc. # 74.) The Recommendation stated that "the parties shall have fourteen (14) days after service of this Recommendation to serve and file any written objections in order to obtain reconsideration by the District Judge to whom this case is assigned." (*Id.* at 40.) It also informed the parties that

“failure to serve and file specific, written objections waives de novo review by the District Court” (*Id.*) No party has filed objections.

“In the absence of timely objection, the district court may review a magistrate’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) (observing 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”). Having reviewed the Recommendation, which is extremely thorough, the Court discerns no clear error on the face of the record and finds that Judge Mix’s reasoning is sound.

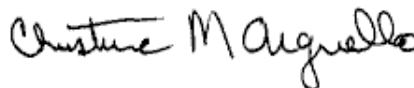
Accordingly, it is hereby ORDERED that the Recommendation of United States Magistrate Judge Kristen L. Mix (Doc. # 74) is AFFIRMED and ADOPTED. Pursuant to, and as specified with detail in, the Recommendation, it is

FURTHER ORDERED that Defendants’ Motion to Dismiss or Motion for Summary Judgment (Doc. # 48) is GRANTED, and Plaintiff’s Motion for Partial Summary Judgment (Doc. # 50) is DENIED AS MOOT. As such, it is

FURTHER ORDERED that Plaintiff’s Second Amended Complaint (Doc. # 39) is DISMISSED WITHOUT PREJUDICE.

DATED: November 20, 2012

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge