

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 11-cv-01511-PAB-KMT

GLENN McMINN,

Plaintiff,

v.

S.C.O. ROBERT DODSON and
ALLEN BIRT,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Kathleen M. Tafoya filed on April 24, 2012 [Docket No. 108]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. See 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on April 24, 2012. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. See *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[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”). In this matter, the Court has reviewed the

Recommendation to satisfy itself that there is “no clear error on the face of the record.”¹
Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, the Court has
concluded that the Recommendation is a correct application of the facts and the law.
Accordingly, it is

ORDERED as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 108] is
ACCEPTED.

2. Defendant Birt’s Motion to Dismiss [Docket No. 51] is GRANTED, and the
claims against defendant Allen Birt are dismissed in their entirety.

3. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from
this Order would not be taken in good faith and therefore *in forma pauperis* status will
be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438
(1962).

DATED May 18, 2012.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge

¹This standard of review is something less than a “clearly erroneous or contrary
to law” standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo
review. Fed. R. Civ. P. 72(b).