

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.

Defendant.

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 February 7, 2013 [Docket No. 160]. 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 February 7, 2013. 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. 160] is
ACCEPTED.

2. Defendant Robert Dodson’s Motion for Summary Judgment or, in the
Alternative, Motion to Dismiss [Docket No. 146] is GRANTED. All claims against
defendant Dodson are dismissed without prejudice.

3. Defendant Robert Dodson’s Motion for Sanctions Pursuant to Fed. R. Civ. P.
37 [Docket No. 127], which requests sanctions in the form of dismissal, is DENIED as
moot.

4. 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). If Mr. McMinn files a notice of appeal, he also must pay the full \$455.00
appellate filing fee or file a motion to proceed *in forma pauperis* in the United States

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).

Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App.

P. 24.

5. That this case is closed in its entirety.

DATED February 26, 2013.

BY THE COURT:

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