

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

Civil Case No. 11-cv-01871-REB-KLM

SHERWYN OATES,

Plaintiff,

v.

MATTHEW PATELLA,

Defendant.

ORDER ADOPTING RECOMMENDATIONS OF THE
UNITED STATES MAGISTRATE JUDGE

Blackburn, J.

The matter before me is the **Order and Recommendation of United States Magistrate Judge** [#28]¹ filed February 1, 2012. No objections having been filed to the recommendation, I review it only for plain error. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10th Cir. 2005).² Finding no such error in the magistrate judge's recommended disposition, I find and conclude that recommendation should be approved and adopted.

THEREFORE, IT IS ORDERED as follows:

1. That the **Order and Recommendation of United States Magistrate Judge**

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

² This standard pertains even though plaintiff is proceeding *pro se* in this matter. *Morales-Fernandez*, 418 F.3d at 1122. In addition, because plaintiff is proceeding *pro se*, I have construed his pleadings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. *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. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)).

[#28] filed February 1, 2012, is **APPROVED AND ADOPTED** as an order of this court;


2. That **Defendant Matthew Patella's Motion To Dismiss All Remaining Claims Pursuant to Fed.R.Crim.Pro. [sic] 12(b)(6)** [#21] filed October 17, 2011, is **GRANTED**;

3. That plaintiff's claims against defendant are **DISMISSED WITHOUT PREJUDICE**; and

4. That judgment **SHALL ENTER** on behalf of defendant, Matthew Patella, against plaintiff, Sherwyn Oates, on all claims for relief and causes of action asserted against him; provided, that the judgment shall be without prejudice.

Dated February 22, 2012, at Denver, Colorado.

BY THE COURT:


Robert E. Blackburn
United States District Judge