

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

Civil Action No. 11-cv-02290-CMA-MEH

RICHARD CROW,

Plaintiff,

v.

SGT. J. A. JAMES, (DRDC), and
UNKNOWN JOHN DOE, Medical Staff (at DRDC),

Defendants.

**ORDER ADOPTING AND AFFIRMING SEPTEMBER 10, 2012
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge Michael E. Hegarty pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72. (Doc. # 14.) On September 10, 2012, Judge Hegarty issued a Recommendation, advising that Defendant James's Motion for Summary Judgment "be granted" and that "Plaintiff's Eighth Amendment claim against Defendant James be dismissed with prejudice." (Doc. # 39 at 13 (emphasis deleted).) Plaintiff subsequently filed a "Motion to Response / Reply" (Doc. # 44), which the Court construes as an objection to Judge Hegarty's Recommendation.

When a magistrate judge issues a recommendation on a dispositive matter, Fed. R. Civ. P. 72(b)(3) requires that the district judge "determine de novo any part of the magistrate judge's [recommended] disposition that has been properly objected to." In conducting its review, "[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." *Id.*

In the instant case, Plaintiff does not “properly object[]” to any part of the Recommendation. Instead, he reiterates arguments that were properly before the Magistrate Judge at the time his Recommendation issued. Nonetheless, the Court has conducted a *de novo* review of this matter, including reviewing all relevant pleadings, the Recommendation, and Plaintiff’s objection thereto. Based on this *de novo* review, the Court concludes that Judge Hegarty’s Recommendation is correct and is not called into question by Plaintiff’s objection.

Accordingly, it is hereby ORDERED that Plaintiff’s objection (Doc. # 44) is OVERRULED. It is

FURTHER ORDERED that the Recommendation of United States Magistrate Judge Michael E. Hegarty (Doc. # 39) is AFFIRMED and ADOPTED as an Order of this Court. Pursuant to the Recommendation, it is

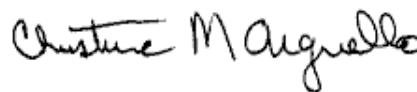
FURTHER ORDERED that Defendant James’s Motion for Summary Judgment (Doc. # 33) is GRANTED and Plaintiff’s Eighth Amendment claim against Defendant James is DISMISSED WITH PREJUDICE. It is

FURTHER ORDERED that, under Fed. R. Civ. P. 4(m), Plaintiff’s claim against Defendant Unknown John Doe is DISMISSED WITHOUT PREJUDICE.

As such, the case is hereby DISMISSED as specified above.

DATED: November 16, 2012

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge