

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge William J. Martínez**

Civil Action No. 11-cv-03108-WJM-MEH

JOHN HUTCHINSON,

Plaintiff,

v.

SGT. HOULE, a Buena Vista Minimum Center,

Defendant.

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**ORDER ADOPTING DECEMBER 13, 2012 RECOMMENDATION OF  
MAGISTRATE JUDGE GRANTING IN PART DEFENDANT'S MOTION TO DISMISS  
AND DISMISSING THIS ACTION WITHOUT PREJUDICE**

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This matter is before the Court on the December 13, 2012 Recommendation of United States Magistrate Judge Michael E. Hegarty (the "Recommendation") (ECF No. 56) that Defendant's Motion to Dismiss (ECF No. 48) be granted in part. The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen days after being served with a copy of the Recommendation. (ECF No. 56, at 1 n. 2.) Despite this advisement, no objections to the Magistrate Judge's Recommendation have to date been filed by either party. The Court also notes that as of October 1, 2012 all mailings to the Plaintiff have been returned as undeliverable. On October 2, 2012 this Court entered an Order (ECF No. 39) placing Plaintiff on notice that pursuant to D.C.COLO.LCivR 10.1M a *pro se* party is required to file a Notice of Change of Address with the Court if the party changes his/her address. To date no Notice of

Change of Address has been filed by Plaintiff.

The Court concludes that the Magistrate Judge's analysis was thorough and sound, and that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."); see also *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) ("In the absence of timely objection, the district court may review a magistrate's report under any standard it deems appropriate.").

In accordance with the foregoing, the Court ORDERS as follows:

- (1) The Magistrate Judge's Recommendation (ECF No. 56) is ADOPTED in its entirety;
- (2) Defendant's Motion to Dismiss (ECF No. 48) is GRANTED IN PART; and
- (3) This action is hereby DISMISSED WITHOUT PREJUDICE for failure to prosecute and for failure to comply with D.C.COLO.LCivR 10.1M.

Dated this 4<sup>th</sup> day of January, 2013.

BY THE COURT:



William J. Martínez  
United States District Judge