

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

Civil Action No. 11-cv-03324-WJM-MJW

SHAWN MANDEL WINKLER,

Plaintiff,

v.

THOMAS MERTENS, Correctional Officer,
JOHN DOE 2, Unknown Officer of Sterling Correctional facility on Hospital Duty,
WESLY WILSON, Case Manager Supervisor,
ROBERT DICK, Case Manager,
SGT. BRADSHAW, Housing Officer,
CORRECTIONAL OFFICER LOIZER,
all individually and in their official capacities, and
KARBON ARMS, Manufacturer of the KARBON Band-it,

Defendants.

**ORDER ADOPTING JANUARY 24, 2013 RECOMMENDATION OF MAGISTRATE
JUDGE
DENYING PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND TRO
DENYING PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND TRO
GRANTING DEFENDANT KARBON ARMS' MOTION TO DISMISS**

This matter is before the Court on the January 24, 2013 Recommendation of United States Magistrate Judge Michael J. Watanabe (the "Recommendation") (ECF No. 146) that both Plaintiff's Motions for Preliminary Injunction and TRO (ECF Nos. 100 and 101) be denied and Defendant Karbon Arms' Motion to Dismiss (ECF No. 62) be granted. 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. 146, at 12-13.) Despite this advisement, no objections to the Magistrate Judge's Recommendation have to date been filed by either party.

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. 146) is ADOPTED in its entirety;
- (2) Plaintiff's Motion for Preliminary Injunction and TRO (ECF No. 100) is DENIED as MOOT;
- (3) Plaintiff's Motion for Preliminary Injunction and TRO seeking a court order directing unimpeded access to inmates Louis Madrid and Edward Gomez for the purpose of obtaining their declarations (ECF No. 101) is DENIED and;
- (4) Defendant Karbon Arms' Motion to Dismiss Pursuant to Fed. R. Civ. P 12(b)(6) is GRANTED. Claim Four is hereby DISMISSED WITHOUT PREJUDICE and the Clerk of the Court is DIRECTED to remove Defendant Karbon Arms as a defendant in this action.

Dated this 19th day of February, 2013.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "William J. Martinez", written over a horizontal line.

William J. Martinez
United States District Judge