

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 12-cv-00448-WYD-MJW

KEITH PARKER,

Plaintiff,

v.

KEVIN MILYARD;
RYAN LONG; and
JOHN DOE,

Defendants.

**ORDER AFFIRMING AND ADOPTING RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

THIS MATTER is before the Court on the “Recommendation on Plaintiff’s Motion Emergency Temporary Restraining Order and or Preliminary [sic] Injunction Under the Rules of Federal Rules of Civil Procedure Rule 65(a)(b) (ECF No. 26) and Defendants Kevin Milyard and Ryan Long’s Motion to Dismiss (ECF No. 36)”, filed November 29, 2012. (ECF No. 49, Recommendation). Magistrate Judge Watanabe recommends that Plaintiff’s motion be denied, Defendants’ motion be granted, and that this matter be dismissed. (Recommendation at 11-12). The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

Magistrate Judge Watanabe advised the parties that written objections were due within fourteen (14) days after service of a copy of the Recommendation. (Recommendation at 13). Despite this advisement, no objections were filed to the

Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[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"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."¹ See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Magistrate Judge Watanabe's Recommendation is thorough, well reasoned and sound. I agree with Magistrate Judge Watanabe that Plaintiff's claims should be dismissed for the reasons stated in both the Recommendation and this Order.

Based on the foregoing, it is

ORDERED that the Recommendation of United States Magistrate Judge Boland (ECF No. 49) is **AFFIRMED** and **ADOPTED**. In accordance therewith, it is

FURTHER ORDERED that the Plaintiff's Motion [for] Emergency Temporary Restraining Order (ECF No. 26) is **DENIED**. It is

FURTHER ORDERED that the Defendants Kevin Milyard and Ryan Long's Motion

¹ Note, this 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).

to Dismiss (ECF No. 36) is **GRANTED**. It is

FURTHER ORDERED that the claims against defendant John Doe are **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Accordingly, this matter is **DISMISSED**.

Dated: December 20, 2012

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge