

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

Civil Action No. 12-cv-01399-CMA-BNB

PERCY BARRON,

Plaintiff,

v.

YVETTE FETTERHOFF,  
DAVID ALLRED, and  
BLAKE DAVIS,

Defendants.

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**ORDER ADOPTING AND AFFIRMING JANUARY 11, 2013  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

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This matter is before the Court on the January 11, 2013 Recommendation by United States Magistrate Boyd N. Boland that Defendants' Motion to Dismiss (Doc. # 27) be granted and Plaintiff's Complaint be dismissed for failure to state a claim upon which relief can be granted.<sup>1</sup> The Magistrate Judge further recommended that this action count as a "prior occasion" for purposes of 28 U.S.C. § 1915(g). (Doc. # 37 at 7-8.) The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

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<sup>1</sup> Magistrate Judge Boland issued a separate Recommendation on January 11, 2013, recommending that Plaintiff's three separate motions for preliminary injunction (Doc. ## 8, 22, 34) be denied. (Doc. # 36.) Because the Court agrees with the Magistrate Judge that the Complaint should be dismissed under Fed. R. Civ. P. 12(b)(6), these motions are denied as moot.

The Recommendation advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation. (Doc. # 37 at 8 n.3.) Despite this advisement, no objections to Magistrate Judge Bolandx's Recommendation have been filed by either party. "In the absence of timely objection, the district court may review a magistrate [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *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.")).

The Court has reviewed all the relevant pleadings concerning Defendants' Motion to Dismiss. Based on this review, the Court concludes that Magistrate Judge Boland's thorough and comprehensive analyses and recommendations are correct and that "there is no clear error on the face of the record." Fed. R. Civ. P. 72 advisory committee's note. Therefore, the Court ADOPTS the Recommendation of Magistrate Judge Mix as the findings and conclusions of this Court.

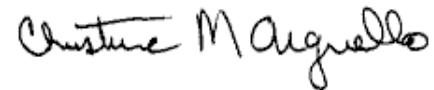
Accordingly, it is ORDERED that the Recommendation of the United States Magistrate Judge (Doc. # 37) is AFFIRMED and ADOPTED.

It is FURTHER ORDERED that Defendants' Motion to Dismiss (Doc. # 27) is GRANTED and this case be DISMISSED. This action counts as a "prior occasion" for purposes of 28 U.S.C. § 1915(g).

It is FURTHER ORDERED that Plaintiff's Motions for Preliminary Injunction (Doc. ## 8, 22, 34) are DENIED AS MOOT.

DATED: February 04, 2013

BY THE COURT:

A handwritten signature in black ink that reads "Christine M. Arguello". The signature is written in a cursive style with a large initial "C" and "A".

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CHRISTINE M. ARGUELLO  
United States District Judge