

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 12-cv-03078-REB-CBS

DEMETRIUS THOMAS,

Plaintiff,

v.

STATE OF COLORADO,
CDOC,
TOM CLEMENTS,
SUSAN JONES,
SGT. JOHNSON, and
MR. K,

Defendants.

**ORDER ADOPTING RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

This matter is before me on the following:(1) the **Motion to Dismiss** [#32]¹ filed May 13, 2013; and (2) the **Recommendation of United States Magistrate Judge** [#54] filed January 27, 2014. I approve and adopt the recommendation and grant the motion to dismiss.

No objections to the recommendation were filed. Thus, I review it only for plain error. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10th Cir. 2005). Finding no error, much less plain error, in the recommendation of the magistrate judge, I find and conclude that the recommendation

¹ “[#32]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court’s case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

should be approved and adopted as an order of this court.

The plaintiff is proceeding *pro se*. Thus, I have construed his pleadings and other filings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991).

The plaintiff, Demetrius Thomas, is an inmate in the custody of the Colorado Department of Corrections. In Claim One, Mr. Thomas alleges that the defendants failed to protect him and denied him equal protection of the law while Mr. Thomas was housed at the Colorado Territorial Correctional Facility. Based on these allegations, he asserts claims under the Eighth and Fourteenth Amendments. *Complaint* [#13]. In Claim Two, Mr. Thomas asserts that defendant Sgt. Johnson retaliated against Mr. Thomas, in violation of his First, Eighth, and Fourteenth Amendments, by labeling Mr. Thomas a “rat.” *Id.*

Based on a thorough analysis of the complaint and the issues raised in the motion to dismiss, the magistrate judge recommends that the motion to dismiss be granted and that this case be dismissed. I concur. Therefore, I approve and adopt the recommendation and grant the motion to dismiss.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#54] filed January 27, 2014, is **APPROVED** and **ADOPTED** as an order of this court;
2. That under FED. R. CIV. P. 12(b)(6), the **Motion to Dismiss** [#32] filed May

13, 2013, is **GRANTED**;

3. That this case is **DISMISSED**;

4. That **JUDGMENT SHALL ENTER** in favor of the defendants, State of Colorado, CDOC, Tom Clements, Susan Jones, Sgt. Johnson, and Mr. K, against the plaintiff, Demetrius Thomas; and

5. That the defendants are **AWARDED** their costs, to be taxed by the clerk of the court under Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1.

Dated February 20, 2014, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge