

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

Civil Action No. 12-cv-03317-REB-KLM

JAMES FAIRCLOTH,

Plaintiff,

v.

MARQUEZ, Correctional Officer, in his individual capacity, and
TOM BENEZE, Lt., in his individual capacity,

Defendants.

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

Blackburn, J.

The matter before me is the **Recommendation of United States Magistrate Judge** [#135],¹ filed June 24, 2015. No objections having been filed to the recommendation, I review it only for plain error. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10th Cir. 2005).² Finding no such error in the recommended disposition, I find and conclude that the magistrate judge's recommendation should be approved and adopted.

¹ “[#135]” 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.

² This standard pertains even though plaintiff is proceeding *pro se* in this matter. *Morales-Fernandez*, 418 F.3d at 1122. Nevertheless, because plaintiff is proceeding *pro se*, I have construed his pleadings 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, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); *Andrews v. Heaton*, 483 F.3d 1070, 1076 (10th Cir. 2007); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)).


THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#135], filed June 24, 2015, is approved and adopted as an order of this court; and

2. That defendants' **Motion for Summary Judgment** [#130], filed June 12, 2015, is denied without prejudice to refile after the stay is lifted

Dated July 30, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge