

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge R. Brooke Jackson

Civil Action No. 13-cv-01038-RBJ-BNB

DONALD S. THURSTON,

Plaintiff,

v.

SGT. STRINGARI, C.D.O.C. Officer,
CPT. RODNEY ACHEN, D.D.O.C. Officer,
CHARLES J. SCHOEPHOERSTER, PA, Clinical Services,
R. WOODCOCK, RN, Clinical Services,
E. WHITTAKER, RN, Clinical Services,
ROY HAVEN, Provider, Clinical Services, and
UNKNOWN CLINICAL SERVICES STAFF in Colorado Territorial Correctional Facility,

Defendants.

ORDER

This matter is before the Court on the December 2, 2013 Recommendation by Magistrate Judge Boyd N. Boland [Doc. #37] that Mr. Thurston's Complaint be dismissed without prejudice as against defendant Whittaker for failure to prosecute under D.C.COLO.LCivR 41.1. 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 (14) days after being served with a copy of the Recommendation. [Doc. #37 at 2, n.1]. Despite this advisement, no objections to Magistrate Judge Boyd's Recommendation were 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) (“It 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.”)).

On September 25, 2013, Judge Boland ordered Mr. Thurston to show cause on or before October 24, 2013 why the Complaint should not be dismissed as against defendant Whittaker for failure to prosecute. [Doc. #27]. In the show cause order, Judge Boland warned Mr. Thurston that if no such showing was made, he would enter a recommendation that the action be dismissed as against defendant Whittaker. *Id.* at 2. Mr. Thurston failed to respond to the show cause order, leading Judge Boland to issue his Recommendation. Mr. Thurston then failed to object to Judge Boland’s Recommendation. Based on the foregoing reasons, the Court ADOPTS the Recommendation of United States Magistrate Judge Boland.

Order

It is ordered that the Recommendation of the United States Magistrate Judge [Doc. # 37] be AFFIRMED and ADOPTED. It is further ORDERED that the Complaint be DIMISSED WITHOUT PREJUDICE as against defendant Whittaker for failure to prosecute.

DATED this 19th day of February, 2014.

BY THE COURT:



R. Brooke Jackson
United States District Judge