

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

Civil Action No. 13-cv-01342-REB-KMT

ERIC BROWN,

Plaintiff,

v.

IDAHO CORRECTIONAL CENTER,
WARDEN TIMOTHY WENGLER,
ASSISTANT WARDEN TOM KESSLER,
H.S.A. ACEL K. THACKER, CCHP,
DR. KIRK STANDER,
DR. DAVID AGLER,
KIT CARSON CORRECTIONAL CENTER,
WARDEN VANCE EVERETT
ASSISTANT WARDEN GREG WILKINSON
DR. SUSAN TIONA,
H.S.A. JODI GRAY, and
CORRECTIONS CORPORATION OF AMERICA,

Defendants.

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

Blackburn, J.

This matter is before me on the following: (1) the **Recommendation of United States Magistrate Judge** [#112]¹ filed July 27, 2015; and (2) the corresponding **Defendant's Motion for Summary Judgment Pursuant To Rule 56** [#92] filed October 14, 2014. The plaintiff filed objections [#113] to the recommendation. I overrule the objections, approve and adopt the recommendation, and grant the motion

¹ “[#112]” 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.

for summary judgment.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which the plaintiff objects. I have considered carefully the recommendation, the objections, the other filings in this case, and the applicable case law.

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, Eric Brown, is an inmate in the custody of the Idaho Department of Corrections (IDOC). Currently, he is housed at the Kit Carson Correctional Center (KCCC) in Burlington, Colorado, a private prison operated by the Corrections Corporation of America.

In his complaint [#25], plaintiff alleges claims under the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq., and 42 U.S.C. § 1983 for failure to adequately treat his migraine headaches. The plaintiff alleges three claims against the defendants: (1) the defendants are preventing Mr. Brown from obtaining the proper migraine medication and are causing long-term damages to his kidneys, in violation of the Eighth Amendment; (2) the defendant have denied Mr. Brown equal protection under the law, in violation of the Fourteenth Amendment because Colorado inmates held at the Kit Carson Correction Center (KCCC) have access to an ADA Coordinator who handles prisoner ADA issues, Idaho Department of Corrections's (IDOC) inmates at KCCC do not have a similar mechanism through which to address their ADA issues;

and (3) Mr. Brown was denied reasonable accommodation under the ADA when he was prohibited from carrying a medication for migraine headaches on his person and was denied an opportunity to wear tinted glasses or sunglasses indoors to alleviate his migraines.

The defendants moved for summary judgment on all claims. Addressing the issues raised in the motion for summary judgment, the magistrate judge concluded that the motion for summary judgment should be granted. The magistrate judge correctly applied the proper procedural and substantive standards in analyzing the motion for summary judgment and carefully analyzed the undisputed facts evidenced in the record and applied the relevant law. After *de novo* review, I concur with the analysis and conclusions of the magistrate judge. The objections [#113] do not contain any valid criticism of the analysis and conclusions of the magistrate judge. Thus, I overrule the objections and approve and adopt the recommendation.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#112] filed July 27, 2015, is approved and adopted as an order of this court;
2. That the objections [#113] of the plaintiff are overruled;
3. That the **Defendant's Motion for Summary Judgment Pursuant To Rule 56** [#92] filed October 14, 2014, is granted;
4. That judgment shall enter in favor the defendants, Idaho Correctional Center, Warden Timothy Wengler, Assistant Warden Tom Kessler, H.S.A. Acel K. Thacker, CCHP, Dr. Kirk Stander, Dr. David Agler, Kit Carson Correctional Center, Warden Vance Everett, Assistant Warden Greg Wilkinson, Dr. Susan Tiona, H.S.A. Jodi Gray, and Corrections Corporation of America, against the plaintiff, Eric Brown;

5. That the defendants are awarded their costs to be taxed by the clerk of the court in the time and manner prescribed by Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1; and

6. That this case is closed.

Dated September 8, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge