

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
LEWIS T. BABCOCK, JUDGE**

Civil Action No. 13-cv-02189-LTB-BNB

JAMES P. WYLIE,

Plaintiff,

v.

TONY CAROCHI, CDOC Interim Executive Director,
JAMES FALK, SCF Warden,

Defendants.

ORDER

THIS MATTER is before me on the Recommendation of the Magistrate Judge that the Defendants' Motion to Dismiss (Doc 20) be granted. Specifically, the Magistrate Judge concludes that the motion should be granted to the extent it seeks dismissal of all claims against Defendants in their official capacities for retroactive monetary relief. The Magistrate Judge then concludes that the Plaintiff's claim for injunctive relief against the Defendants should be dismissed as moot and the claims against Defendants in their official capacity should be dismissed entirely. The Magistrate Judge then concludes that because the Plaintiff has failed to meet the subjective component of deliberate indifference, the motion should be granted insofar as it seeks dismissal of the Plaintiff's Eighth Amendment claims. The Magistrate goes on to conclude that the Plaintiff has failed to show a constitutionally cognizable liberty interest violated by his placement in a holding cell pursuant to Operational Memorandum 300-123 so the Plaintiff's due process claims should

be dismissed. Finally, the Magistrate Judge concludes that the motion to dismiss should be granted insofar as it seeks dismissal of the Plaintiff's request for compensatory damages. And in conclusion, the Magistrate Judge recommends that the Defendants' Motion to Dismiss (Doc 20) be granted. The Recommendation was issued and served on May 13, 2014.

The Plaintiff has now, having been given extensions of time to respond to the Magistrate Judge's Recommendation, has filed his specific objections to the Recommendation. I therefore review the Recommendation *de novo* in light of the file and record in this case. On *de novo* review, I conclude that the Magistrate Judge's thorough analysis and recommendation is correct. Accordingly

IT IS ORDERED that the Defendants' Motion to Dismiss (Doc 20) is GRANTED and the above action is DISMISSED.

BY THE COURT:

s/Lewis T. Babcock
Lewis T. Babcock, Judge

DATED: June 30, 2014