

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

Civil Action No 13-cv-03392-RBJ-KLM

PHILLIP DAVID HASKETT,

Plaintiff,

v.

GARY WOODROW FLANDERS,
COLORADO SPRINGS POLICE DEPARTMENT OFFICER DOMINICK LUNA,
both personally and in his official capacity, and,
THE COLORADO SPRINGS POLICE DEPARTMENT, A DEPARTMENT OF THE CITY OF
COLORADO SPRINGS, COLORADO,

Defendants.

ORDER

This matter is before the Court on the October 24, 2014 Order and Recommendation of Magistrate Judge Kristen L. Mix [ECF No. 60]. The Recommendation addresses defendant Gary Woodrow Flanders' Motion to Dismiss First Amended Complaint [#30] Pursuant to Fed. R. Civ. P. 12(b)(2), (4), and (5) or in the Alternative, Motion to Strike Immaterial, Impertinent and Scandalous Matter Pursuant to Fed. R. Civ. P. 12(f). [ECF No. 49]. 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. However, no objection was filed by either party. "In the absence of timely objection, the district court may review a magistrate'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.'')).

The Court has reviewed the motion as well as all relevant filings in the docket. Based on this review, the Court concludes that Judge Mix's analyses and recommendations are correct, and that "there is no clear error on the face of the record." Fed. R. Civ. P. 72 advisory committee's note. Therefore, the Court ADOPTS the Recommendation as the findings and conclusions of this Court.

Accordingly, it is ORDERED that the Recommendation of United States Magistrate Judge [ECF No. 60] is AFFIRMED and ADOPTED. Defendant Flanders' Motion to Dismiss [ECF No. 49] is DENIED.

DATED this 24th day of November, 2014.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", with a long, sweeping flourish extending to the right.

R. Brooke Jackson
United States District Judge