

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Christine M. Arguello**

Civil Action No. 14-cv-00041-CMA-BNB

AHMED KHALFAN GHAILANI, Individually,

Plaintiff,

v.

ERIC HOLDER, US ATTORNEY GENERAL,  
US ATTORNEY'S OFFICE, SDNY,  
FEDERAL BUREAU OF INVESTIGATION,  
OFFICE OF ENFORCEMENT OPERATIONS,  
FEDERAL BUREAU OF PRISONS, and  
DAVID BERKEBILE, ADX Warden,

Defendants.

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**ORDER ADOPTING AND AFFIRMING NOVEMBER 3, 2014  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE  
THAT ALL CLAIMS BE DISMISSED**

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This case was referred to United States Magistrate Judge Boyd N. Boland pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72. (Doc. # 31.) On November 3, 2014, Judge Boland issued a Recommendation on Defendants' Motion to Dismiss. (Doc. # 58.) In that Recommendation, Judge Boland recommended that the Court grant Defendants' Motion to dismiss all claims. (*Id.*) On December 16, 2014, Plaintiff filed a timely objection to Judge Boland's Recommendation. (Doc. # 64.) On January 16, 2015, Defendants filed a Response to Plaintiff's objection. (Doc. # 68.)

When a magistrate judge issues a recommendation on a dispositive matter, Fed. R. Civ. P. 72(b)(3) requires that the district judge "determine *de novo* any part

of the magistrate judge's [recommended] disposition that has been properly objected to." In conducting its review, "[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." *Id.*

As required by 28 U.S.C. § 636(b), the Court has conducted a *de novo* review of this matter, including carefully reviewing all relevant pleadings, the Report and Recommendation, Plaintiff's objection, and Defendants' response. Based on this *de novo* review, the Court concludes that Magistrate Judge Boland's Report and Recommendation is correct and is not called into question by Plaintiff's objection.

Plaintiff raises several objections that merely reiterate arguments that were before Magistrate Judge Boland at the time his Recommendation issued. For instance, Plaintiff's extended, yet reiterated, challenge to 28 C.F.R. § 501.3 fails as he does not "establish that no set of circumstances exists under which the Act would be valid." *U.S. v. Salerno*, 481 U.S. 739, 745 (1987). Although his objections do not trigger *de novo* review, the Court has nonetheless conducted a *de novo* review of this matter. Based on this *de novo* review, the Court concludes that Judge Boland's Recommendation is correct and is not called into question by Plaintiff's objections.

Further, with regard to Plaintiff's new argument that the "*Turner*"<sup>1</sup> standard should not apply to a claim where [a Special Administrative Measures] restriction directly prohibits religious act," the Court perceives no error. Plaintiff contends that applying the *Turner* standard "would allow prison officials to use religious-based restrictions even

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<sup>1</sup> *Turner v. Safley*, 482 U.S. 78 (1987).

when there are religious-neutral restrictions to accomplish the same goal.” The *Turner* test recognizes that constitutional rights can be limited during incarceration without violating the United States Constitution. *O’Lone v. Estate of Shabazz*, 482 U.S. 342, 348 (1987). To the extent Plaintiff points out that his claims five and six should be dismissed, the Court agrees. Accordingly, Plaintiff’s objections are unavailing and the Court agrees with Magistrate Judge Boland’s well-reasoned analysis.

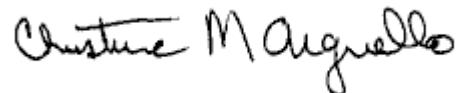
Accordingly, it is hereby ORDERED that Plaintiff’s objection (Doc. # 64) is OVERRULED, it is

FURTHER ORDERED that the Recommendation of United States Magistrate Judge Boyd N. Boland (Doc. # 58) is AFFIRMED and ADOPTED as an Order of this Court. Pursuant to the Recommendation, it is

FURTHER ORDERED that Defendants’ Motion to Dismiss (Doc. # 35) is GRANTED and the claims against Defendants are DISMISSED WITH PREJUDICE, it is FURTHER ORDERED that the case is dismissed in its entirety.

DATED: January 30, 2015

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge