

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Senior Judge Wiley Y. Daniel**

Civil Action No. 14-cv-01930-WYD-MEH

WYATT T. HANDY, JR.,

Plaintiff,

v.

TRACY DOUGLAS,  
BARBARA REYMAN,  
TAMERA COOPER,  
BOBBY BONNER, ,  
GREG WILKERSON,  
UNKNOWN SHIFT COMMANDER/DUTY OFFICER,  
BOBBY MAYES, and  
SHERWYN PHILLIP,

Defendants.

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

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This matter is before the Court on Plaintiff's Motion to Amend the Complaint filed on April 16, 2015. This motion was referred to Magistrate Judge Hegarty, and a Recommendation of United States Magistrate Judge was issued on May 14, 2014. See 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b), D.C.COLO.LCivR. 72.1. Magistrate Judge Hegarty recommends therein that Plaintiff's Motion to Amend the Complaint be granted in part and denied in part.

More specifically, Magistrate Judge Hegarty recommends that the motion to amend be granted to allow Plaintiff to add his case manager, Tiffany Davis, as a Defendant in the case. He recommends that the motion to amend be denied as

untimely as to Plaintiff's request to add Claims 8 and 9, because Plaintiff knew or should have known the facts upon which the proposed amendment is based but failed to include them in the original complaint.

Magistrate Judge Hegarty advised the parties that specific written objections were due within fourteen (14) days after service of a copy of the Recommendation. (Recommendation at 1 n. 1.) Despite this advisement, no objections were filed to the Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t 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"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."<sup>1</sup> See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error. I agree with Magistrate Judge Hegarty's analysis that the Motion to Amend Complaint should be granted to add Defendant Davis but otherwise denied. Accordingly, it is

ORDERED that the Recommendation of United States Magistrate Judge dated May 14, 2015 (ECF No. 101) is **AFFIRMED AND ADOPTED**. It is

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<sup>1</sup> Note, this standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo review, Fed. R. Civ. P. 72(b).

FURTHER ORDERED that Plaintiff's Motion to Amend the Complaint is **GRANTED IN PART AND DENIED**. Plaintiff may file a Third Amended Complaint that adds Tiffany Davis as a Defendant in the case, but may not include Claims 8 and 9. It is

FURTHER ORDERED that the Third Amended Complaint shall be filed within fourteen (14) days of this Order, or by **Monday, June 29, 2015**.

Dated: June 15, 2015

BY THE COURT:

s/ Wiley Y. Daniel  
Wiley Y. Daniel  
Senior United States District Judge