

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Raymond P. Moore**

Civil Action No. 14-cv-03201-RM-NYW

DRED DAWSON-PHILLIPS, of others similarly situated,

Plaintiff,

v.

STATE OF COLORADO,
RICK RAEMISCH,
ROGER WERHOLTZ,
TONY CAROCHI,
TOM CLEMENTS,
ARISTEDES ZAVARIS,
JOE ORTIZ, and
JOHN SUTHERS,

Defendants.

ORDER

THIS MATTER is before the Court on: (1) the January 26, 2015, Recommendation of United States Magistrate Judge Boyd N. Boland (“First Recommendation”) that the Complaint be dismissed without prejudice against Defendant Tony Carochi for failure to prosecute (ECF No. 28); and (2) the February 3, 2015, Recommendation of United States Magistrate Judge Boyd N. Boland¹ (“Second Recommendation”) (ECF No. 30) that the Complaint be dismissed without prejudice against Defendant Joe Ortiz for failure to prosecute. The Recommendations are incorporated herein by reference. *See* 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

¹ This case was subsequently reassigned to Magistrate Judge Nina Y. Wang upon her appointment. (ECF No. 32.)

The Recommendations advised the parties that specific written objections were due within fourteen days after being served with a copy of the Recommendations. (ECF No. 28 at 2; No. 30 at 2.) Despite this advisement, no objections to the Recommendations have to date been filed by any party.² (*See generally* Dkt.)

The Court has reviewed the Recommendations, and other relevant portions of the court file. The Court finds the First Recommendation was issued on January 26, 2015, several days before the February 5, 2015, return date on the Order to Show Cause upon which that recommendation was based. The return date, however, has now passed and no response has been filed to the Order to Show Cause. Accordingly, the Court modifies the First Recommendation to reflect that Plaintiff did not respond to the Order to Show Cause by the February 5, 2015, due date and as of the date of this Order, and, as modified, accepts the First Recommendation. Accordingly, and in light of the current record, the Court otherwise concludes that the Magistrate Judge's analysis in the Recommendations was thorough and sound, and that there is no clear error on the face of the record. *See* Fed. R. Civ. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."); *see also Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) ("In the absence of timely objection, the district court may review a

² The Court is mindful that Plaintiff proceeds *pro se* and that the First Recommendation mailed to Plaintiff was returned as undeliverable. (ECF No. 31.) An examination of the court file, however, shows the First Recommendation was mailed to the address Plaintiff provided (ECF Nos. 1 & 31); and Plaintiff filed no change of contact information as required by D.C.COLO.LAttyR 5(c) or otherwise notified the court of any change of address. (*See generally* Dkt.)

magistrate's report under any standard it deems appropriate.”). It is therefore **ORDERED** as follows:

1. The Magistrate Judge's First Recommendation (ECF No. 28), as modified herein, is ACCEPTED and ADOPTED in its entirety;
2. The Magistrate Judge's Second Recommendation (ECF No. 30) is ACCEPTED and ADOPTED in its entirety; and
3. Plaintiff's Complaint as against Defendants Tony Carochi and Joe Ortiz is DISMISSED WITHOUT PREJUDICE.

DATED this 2nd day of March, 2015.

BY THE COURT:



RAYMOND P. MOORE
United States District Judge