

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

Civil Action No. 18-cv-00935-CMA-KLM

DAVID WAYNE ROBINSON,

Plaintiff,

v.

MIKE GALLEGOS,
HANA S. RUIZ,
DAVID BRIGGS,
SGT. LUSK,
SGT. S.P. ZARNOW, and
JAIME KAFATI,

Defendants.

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

This matter is before the Court on the July 9, 2021 Recommendation of United States Magistrate Judge (Doc. # 63), wherein Magistrate Judge Kristen L. Mix recommends that this Court grant Defendants' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1), or Alternatively, to Stay Pursuant to the Younger Doctrine (Doc. # 52) and deny Plaintiff's Motion to Supplement Pleading to Amended Complaint (Doc. # 60). 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. (Doc. # 63 at 18.) Despite this advisement, no objection to Magistrate Judge Mix's Recommendation has been filed by any party.

“[T]he district court is accorded considerable discretion with respect to the treatment of unchallenged magistrate reports. In the absence of timely objection, the district court may review a magistrate [judge'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) (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.”)).

After reviewing the Recommendation of Magistrate Judge Mix, in addition to applicable portions of the record and relevant legal authority, the Court is satisfied that the Recommendation is sound and not clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a). Accordingly, the Court ORDERS as follows:


- the Report and Recommendation of United States Magistrate Judge (Doc. # 63) is AFFIRMED and ADOPTED as an Order of this Court;
- Plaintiff's Motion to Supplement (Doc. # 60) is DENIED;
- Defendants' Motion to Dismiss (Doc. # 52) is GRANTED;
- this case is hereby DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 12(b)(1). See *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1218 (10th Cir.

2006) (holding that a dismissal for lack of subject matter jurisdiction must be without prejudice);

- the Clerk of Court is directed to close this case.

DATED: August 3, 2021

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge