

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 20-cv-1556-WJM-GPG

JOSHUA SIMPSON and
LUKE-IRVIN CHRISCO,

Plaintiffs,

v.

MATT LEWIS, Sheriff of Mesa County, Colorado, in his official capacity,

Defendant.

**ORDER ADOPTING JANUARY 19, 2021 RECOMMENDATION OF
MAGISTRATE JUDGE GRANTING DEFENDANT'S MOTION TO DISMISS
PLAINTIFFS' COMPLAINT**

This matter is before the Court on the January 19, 2021 Recommendation of United States Magistrate Judge Gordon P. Gallagher (the "Recommendation") (ECF No. 54) that Defendant's Motion to Dismiss Plaintiffs' Complaint Pursuant to F.R.C.P. 12(b)(6) (ECF No. 37) be granted and that this action be dismissed in its entirety.¹ 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 days after being served with a copy of the Recommendation. (ECF No. 54 at 1.) Despite this advisement, no objections to the Magistrate Judge's Recommendation have to date been received.

¹ On October 11, 2020, Plaintiff Chrisco filed Plaintiff's Motion for Voluntary Dismissal Without Prejudice, requesting that the Court enter an order dismissing him as a Plaintiff without prejudice. (ECF No. 49 at 9.) The Motion was granted on February 9, 2021. (ECF No. 55.)

The Court concludes that the Magistrate Judge's analysis 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 magistrate's report under any standard it deems appropriate.").

In accordance with the foregoing, the Court ORDERS as follows:

- (1) The Magistrate Judge's Recommendation (ECF No. 54) is ADOPTED in its entirety;
- (2) Defendant's Motion to Dismiss Plaintiffs' Complaint Pursuant to F.R.C.P. 12(b)(6) (ECF No. 37) is GRANTED; and
- (3) The Prisoner Complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE; and
- (4) Plaintiff Simpson is GRANTED LEAVE to file an amended complaint no later than **February 26, 2021**.

Dated this 9th day of February, 2021.

BY THE COURT:



William J. Martínez
United States District Judge