

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

Civil Action No. 20-cv-02999-CMA-GPG

MARK HARRIS,

Plaintiff,

v.

JARED POLIS, Governor, and
DEAN WILLIAMS, Executive Director Dept. of Corrections,

Defendants.

**ORDER ADOPTING RECOMMENDATION OF UNITED STATES MAGISTRATE
JUDGE SCOTT T. VARHOLAK**

This matter is before the Court on the June 23, 2021 Recommendation of United States Magistrate Judge (“Recommendation”) (Doc. # 58), wherein Magistrate Judge Varholak recommends that this Court deny Plaintiff’s Motion for Emergency Injunction (Doc. # 6) and grant both Defendant Dean Williams’s Motion to Dismiss (Doc. # 46) and Defendant Jared Polis’s Motion to Dismiss (Doc. # 47). 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. # 58 at 16.) Despite this advisement, no objection to the 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.”)).

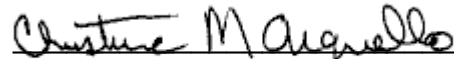
After reviewing the Recommendation of Magistrate Judge Varholak, in addition to applicable portions of the record and relevant legal authority, the Court is satisfied that the Recommendation is sound and not clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a). Accordingly, the Court ORDERS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

- the Recommendation of United States Magistrate Judge (Doc. # 58) is AFFIRMED and ADOPTED as an Order of this Court;
- Plaintiff’s Motion for Emergency Injunction (Doc. # 6) is DENIED;
- Defendant Dean Williams’s Motion to Dismiss (Doc. # 46) is GRANTED, and Plaintiff’s claims against him are hereby DISMISSED WITHOUT PREJUDICE. See *Oxendine v. Kaplan*, 241 F.3d 1272, 1275 (10th Cir. 2001) (holding that when a plaintiff is proceeding *pro se*, dismissal with prejudice is only appropriate “where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend” (quotation omitted));

- Defendant Jared Polis's Motion to Dismiss (Doc. # 47) is GRANTED, and Plaintiff's claims against him are hereby DISMISSED WITHOUT PREJUDICE. See *Oxendine*, 241 F.3d at 1275; and
- the Clerk of Court is directed to close this case.

DATED: July 16, 2021

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge