

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

ROBERTO RODRIGUEZ,

Appellant,

v.

Case No. 1:11mc15-SPM

VETERANS ADMINISTRATION,

Appellee.

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ORDER AFFIRMING MAGISTRATE JUDGE DECISION

This cause is before the Court on Roberto Rodriguez's appeal (doc. 1) of a United States Magistrate Judge's decision. On August 11, 2011, a police officer on duty at the Malcolm Randall VA Medical Center in Gainesville, Florida indicated that he observed Appellant sleeping in the Primary Care facility during a time that the area was off limits. The officer informed Appellant that he was not allowed to be in that area, but Appellant did not leave. Instead, he challenged the officer and argued that he had a doctor's appointment and did have a right to be there. The officer took Appellant to another location for further inquiry. The officer confirmed that Appellant did not actually have an appointment. Additionally, a search of the VA police informational system revealed that Appellant had been previously warned about trespassing. The

officer subsequently issued Appellant a citation for violating 38 C.F.R. 1.218(b)(8), which is the crime of trespassing. The Magistrate Judge heard the parties' arguments on December 7, 2011 and found Appellant guilty of trespass. Appellant now appeals the Magistrate Judge's ruling pursuant to Rule 58(g) of the Federal Rules of Criminal Procedure. On May 8, 2012, Appellant submitted a brief in support of his argument (doc. 9), and on May 18, 2012, the Government filed a response (doc. 10). The judgment of the Magistrate Judge will be affirmed.

Although portions of Appellant's brief are illegible, it appears that his argument is that there was no sign indicating that the Primary Care facility was off limits during the time that he was allegedly trespassing. During the proceeding before the Magistrate Judge, there was testimony that there are signs in other areas of the facility advising which areas are accessible. However, whether or not there was such a sign is irrelevant. The testimony indicates that the officer approached Appellant and informed him that he was trespassing. At that point, Appellant was definitely on notice that he was engaging in prohibited conduct. Upon receiving this notice, Appellant had the option to leave and would not have been cited for trespassing, yet he chose not to. Accordingly, the judgment of the United States Magistrate Judge is **affirmed**.

SO ORDERED this 5th day of June, 2012.

S/ Stephan P. Mickle

Stephan P. Mickle
Senior United States District Judge