

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Brad Bigalke,

Plaintiff,

v.

Civil No. 10-212 (JNE/LIB)
ORDER

State of Minnesota, Department of Veterans
Affairs; and AFSCME Council 5, AFL-CIO,

Defendants.

This case is before the Court on a Report and Recommendation dated August 10, 2010.

The magistrate judge recommended that Defendants' motions to dismiss be granted, that Plaintiff's claims for breach of the duty of fair representation and for violations of the Americans with Disabilities Act be dismissed with prejudice, and that Plaintiff's state-law claims be dismissed without prejudice. Plaintiff objected to the Report and Recommendation, and Defendants responded. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court adopts the Report and Recommendation [Docket No. 37]. Therefore, IT IS ORDERED THAT:

1. AFSCME Council 5, AFL-CIO's Motion to Dismiss [Docket No. 4] is GRANTED. Plaintiff's claim against AFSCME Council 5, AFL-CIO for breach of the duty of fair representation is DISMISSED WITH PREJUDICE.
2. The State of Minnesota, Department of Veterans Affairs' Motion to Dismiss [Docket No. 11] is GRANTED. Plaintiff's claim against the State of Minnesota, Department of Veterans Affairs, under the Americans with Disabilities Act is DISMISSED WITH PREJUDICE.

3. Plaintiff's remaining state-law claims are DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 13, 2010

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge