

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Philip A. Brimmer

Civil Action No. 18-cv-02578-PAB-SKC

JASON BROOKS,

Plaintiff,

v.

COLORADO DEPARTMENT OF CORRECTIONS,
CORRECTIONAL HEALTH PARTNERS,
JOHN DOE, MD., President and CEO of Correctional Health Partners, and
SUSAN TIONA, M.D., CDOC Chief Medical Officer,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge S. Kato Crews filed on August 6, 2019 [Docket No. 34]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. See 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on August 6, 2019. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. See *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[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”). In this matter, the Court has reviewed the

Recommendation to satisfy itself that there is “no clear error on the face of the record.”¹
Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, the Court has
concluded that the Recommendation is a correct application of the facts and the law.
Accordingly, it is

ORDERED as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 34] is
accepted.
2. The motion to dismiss [Docket No. 29] filed by defendants Colorado
Department of Corrections and Susan Tiona, MD. is granted in part and denied in part.
3. Plaintiff’s claims against defendant Colorado Department Corrections are
dismissed without prejudice for lack of jurisdiction.
4. Plaintiff’s second and fourth claims are dismissed.
5. Plaintiff’s claim of civil conspiracy against defendant Susan Tiona, M.D. is
dismissed.
6. The motion is denied with respect to the Eighth Amendment claim against
defendant Susan Tiona, M.D.

DATED August 29, 2019.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
Chief United States District Judge

¹This standard of review is something less than a “clearly erroneous or contrary
to law” standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo
review. Fed. R. Civ. P. 72(b).