

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

Civil Action No. 19-cv-02278-CMA-KLM

KENNETH LESLIE CADLWELL,

Plaintiff,

v.

UNITED STATE OF AMERICA,

Defendant.

ORDER AFFIRMING AND ADOPTING MAGISTRATE JUDGE RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Kristen L. Mix. (Doc. # 70). Judge Mix recommends that the Court (1) deny Plaintiff's Unopposed Motion for Expedited Ruling on Issue of Law (Doc. # 53); (2) deny Plaintiff's Motion for Court to Recognize Proof of Service (Doc. # 68); and (3) dismiss this case without prejudice pursuant to F.R.C.P. 41(b). For the following reasons, the Court affirms and adopts Judge Mix's Recommendation as an order of this Court.

Plaintiff, Kenneth Leslie Caldwell, is attempting to sue the United States government for alleged violations of the Fourteenth Amendment. (Doc. # 21). However, he has apparently had difficulty effecting proper service. (See Doc. # 70, pp. 2-6). Though Caldwell submitted a certificate of service (see Doc. # 22), Judge Mix advised him – correctly – that the certificate did not comply with F.R.C.P. 4. (Doc. # 43). Rather

than serving the summons and complaint in accordance with Rule 4, however, Caldwell filed two motions asking the Court to accept his certificate of service as “legitimate and complete.” (Doc. # 68, p. 2; *see also* Doc. # 53). This Court referred the motions to Judge Mix, who recommends denying them on the ground that Plaintiff has failed to provide adequate proof of service. Judge Mix also recommends dismissing the case without prejudice pursuant to F.R.C.P. 41(b). Caldwell now objects to Judge Mix’s Recommendation.¹ (Doc. # 74).

Under 28 U.S.C. § 636(a)(1)(B), this Court may designate a magistrate judge to consider dispositive motions and submit recommendations to the Court. When a magistrate judge submits a recommendation, the Court must “determine *de novo* any part of the magistrate judge’s [recommended] disposition that has been properly objected to.” F.R.C.P. 72(b)(3). However, “only an objection that is sufficiently specific to focus the district court’s attention on the factual and legal issues that are truly in dispute” is sufficient to invoke *de novo* review. *U.S. v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996); *see also Lockert v. Faulkner*, 843 F.2d 1015, 1019 (7th Cir. 1988) (“Just as a complaint stating only ‘I complain states no claim, an objection stating only ‘I object’ preserves no issue for review.”). In the absence of a timely, specific 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).

¹ Because Caldwell is proceeding pro se, the Court has construed his proceedings liberally. *Hall v. Bellmon*, 935 F. 2d 1106, 1110 (10th Cir. 1991).

Caldwell's Objection to Judge Mix's Recommendation is not sufficiently specific to invoke *de novo* review. The Objection fails to identify any factual or legal errors in the Recommendation, and it fails to provide any legitimate basis for rejecting the Recommendation. Further, even if Caldwell had invoked *de novo* review, the Court would nevertheless overrule Plaintiff's objection. The Court has reviewed the Recommendation and other relevant filings in detail, and it finds the Recommendation to be well reasoned and legally correct. The Court therefore agrees with Judge Mix's Recommendation that Plaintiff's motions be denied and that the case be dismissed without prejudice pursuant to Rule 41(b).

It is therefore ORDERED that Plaintiff's Objection (Doc. # 74) is OVERRULED, and that Judge Mix's Recommendation (Doc. # 70) is AFFIRMED AND ADOPTED as an order of this Court. It is

FURTHER ORDERED that Plaintiff's Unopposed Motion for Expedited Ruling on Issue of Law (Doc. # 53) is DENIED. It is

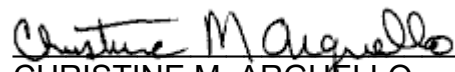
FURTHER ORDERED that and Plaintiff's Motion for Court to Recognize Proof of Service (Doc. # 68) is DENIED. It is

FURTHER ORDERED that this case is DISMISSED WITHOUT PREJUDICE.

The Clerk is directed to close this case.

DATED: December 1, 2021

BY THE COURT:


CHRISTINE M. ARGUELLO
United States District Judge