

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Charlotte N. Sweeney

Civil Action No. 1:24-cv-01361-CNS-SBP

WALTER JOHNSON,

Plaintiff,

v.

KELLER, Health Service Administrator and
A. CIOLLI, Warden,

Defendants.

ORDER

Before the Court is Plaintiff's Objection, ECF No. 72, to United States Magistrate Judge Susan Prose's Recommendation, ECF No. 66, recommending that the Court enter summary judgment in Defendants' favor and dismiss Plaintiff's claims without prejudice, *id.* at 16. Explained below, the Court **OVERRULES** Plaintiff's Objection, and **AFFIRMS** and **ADOPTS** the Recommendation as an order of the Court.*

I. SUMMARY FOR *PRO SE* PLAINTIFF

Defendants moved for summary judgment on your claims. The magistrate judge recommended granting Defendants' summary judgment motion. Because you have failed

* Plaintiff previously filed an appeal to the Tenth Circuit regarding the Recommendation, which the Tenth Circuit dismissed for failure to prosecute and subsequently transferred jurisdiction back to this Court. ECF No. 76 at 1.

to show the magistrate judge erred in doing so, the Court overrules your objection and adopts the magistrate judge's Recommendation, and enters judgment in this case.

Should you correct the deficiencies identified by the magistrate judge regarding the exhaustion of your administrative remedies, and in the future exhaust them as required by law, you may, should you choose to do so, refile a complaint.

II. ANALYSIS

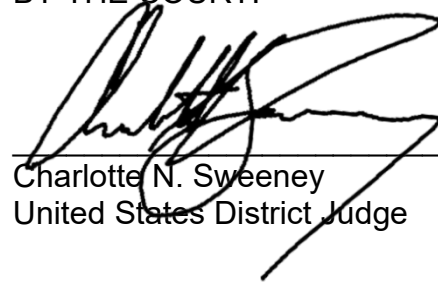
Fundamentally, Plaintiff objects to the Magistrate Judge's recommendation on the grounds that he "exhausted all of [his] administrative remedies." ECF No. 72 at 1. Even construing this argument liberally and as a sufficiently specific objection, the Court disagrees that the Magistrate Judge erred in recommending summary judgment and dismissal. See *U.S. v. Elwood*, 757 F. App'x 731, 736 n.4 (10th Cir. 2018). The Court agrees with Defendants that the Magistrate Judge correctly concluded Plaintiff failed to exhaust, see ECF No. 74 at 8, and Plaintiff has put forth no evidence that disturbs this conclusion. Indeed, the Magistrate Judge rejected the argument Plaintiff makes in his Objection, and the Court discerns no reason, in light of the Magistrate Judge's sound analysis, to reverse. See ECF No. 66 at 10–16; ECF No. 74 at 8–10.

Consistent with the above analysis, the Court **OVERRULES** Plaintiff's Objection, and **AFFIRMS** and **ADOPTS** the Recommendation, ECF No. 66, as an order of this Court. Defendant's Motion for Summary Judgment, ECF No. 48, is **GRANTED**. The Court enters judgment in favor of Defendants and against the Plaintiff. Regarding Plaintiff's Motion for Clarification, the Court **DENIES** the motion as moot considering its analysis of Plaintiff's Objection. ECF No. 73. The Court likewise **DENIES** as moot Plaintiff's motion to appeal

the Recommendation without prepayment, ECF No. 71, given Plaintiff has already filed an appeal that the Tenth Circuit subsequently dismissed, returning jurisdiction to this Court. ECF No. 76 at 1.

DATED this 10th day of September 2025.

BY THE COURT:



Charlotte N. Sweeney
United States District Judge