

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

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| JAMES F. OSTERBUR, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | Case No. 11-CV-2023 |
| |) | |
| ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

On September 14, 2011, Magistrate Judge David G. Bernthal filed a Report and Recommendation (#19) in this case. Judge Bernthal recommended that Defendants’ Motion to Dismiss the Federal Defendants as Party Defendants (#10) be granted. Judge Bernthal further recommended that Defendants’ Motion to Dismiss for Lack of Personal Jurisdiction (#7) filed by the Illinois Defendants be deemed moot and that the case be remanded to state court for further proceedings. On September 20, 2011, Plaintiff filed a pro se Objection (#20) to the Report and Recommendation.¹

This court has carefully reviewed Judge Bernthal’s Report and Recommendation (#19) and Plaintiff’s pro se Objection (#20). This court notes, as it has in previous cases filed by the pro se Plaintiff, that this review has been complicated by Plaintiff’s rambling and mostly unintelligible filings with this court. Following this court’s careful and thorough de novo review, this court agrees

¹ This court notes that, in Case No. 10-CV-2277, this court entered an Order and enjoined Plaintiff from “filing any further lawsuits, motions or pleadings in the United States District Court, Central District of Illinois, all divisions (other than habeas corpus petitions and criminal cases in which he is a party defendant) unless those lawsuits, pleadings and motions are filed through counsel (emphasis in original).” This court ordered that the clerks in all divisions of the Central District of Illinois are directed to return unfiled any papers that Plaintiff attempts to file that do not comply with this order. However, because this case was filed by the pro se Plaintiff prior to the entry of this court’s Order in Case No. 10-CV-2277, this court has considered Plaintiff’s pro se Objections to the Report and Recommendation.

with and accepts Judge Bernthal's Report and Recommendation. This court completely agrees that "Plaintiff's complaint is merely a naked assertion that the federal government should take action in some unspecified way, similar to Plaintiff's numerous other cases filed in this Court that have been deemed frivolous." This court further agrees that Plaintiff cannot show that he is plausibly entitled to relief. Accordingly, this court agrees that Defendants' Motion to Dismiss the Federal Defendants as Party Defendants (#10) should be granted. This court also agrees that the case should be remanded to state court and the Motion to Dismiss for Lack of Personal Jurisdiction (#7) filed by the Illinois Defendants should be deemed moot.

IT IS THEREFORE ORDERED THAT:

- (1) The Report and Recommendation (#19) is accepted by this court.
- (2) The Defendants' Motion to Dismiss the Federal Defendants as Party Defendants (#10) is GRANTED.
- (3) Defendants' Motion to Dismiss for Lack of Personal Jurisdiction (#7) filed by the Illinois Defendants is MOOT and this case is remanded to the circuit court of Champaign County.
- (4) This case is terminated. Accordingly, the pro se Motions (#17, #18) filed by Plaintiff are MOOT.

ENTERED this 26th day of September, 2011

s/ Michael P. McCuskey
MICHAEL P. McCUSKEY
CHIEF U.S. DISTRICT JUDGE