

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DENNIS ALLEN VOSHELL,

Petitioner,

Case Number 10-11409
Honorable Thomas L. Ludington

v.

SHERRY BURT,

Respondent.

ORDER DENYING MOTION TO EXTEND TIME TO FILE OBJECTIONS

On March 17, 2011, the Court received a report and recommendation from Magistrate Judge R. Steven Whalen [Dkt. #15], recommending denying Petitioner Dennis Voshell's petition for writ of habeas corpus and stating that any objections were required to be filed within fourteen days of service of a copy of the report and recommendation.

On April 18, 2011, Petitioner filed a motion for enlargement of time to file objections to the report and recommendation [Dkt. #16]. Petitioner's proof of service does not include the date that he mailed his motion and accompanying brief. Although this motion was filed on the docket April 18, 2011, Petitioner's motion is considered filed as of April, 11, 2011, the postmark date on the envelope. *See Houston v. Lack*, 487 U.S. 266, 273 (1988)(recognizing mailbox rule for *pro se* prisoner appeals); *Cook v. Stegall*, 295 F.3d 517, 521 (6th Cir. 2002)(applying mailbox rule to *pro se* habeas petitions). Petitioner's time for filing objections, with the time extension granted under Federal Rule of Civil Procedure Rule 6(d), expired on April 5, 2011 and his motion for an extension of time to file objections to the report and recommendation is untimely.

Accordingly, it is **ORDERED** that Petitioner's motion to extend time to file objections [Dkt. #16] is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 20, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means and upon Dennis Voshell #264768, at Parnall Correctional Facility, 1780 E. Parnall, Jackson, MI 49201 by first class U.S. mail on April 20, 2011.

s/Tracy A. Jacobs
TRACY A. JACOBS