

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

VAN JENKINS,

Petitioner,

v.

Case No. 11-10424

LINDA TRIBLEY,

Respondent.

**OPINION AND ORDER DENYING
“MOTION FOR TEMPORARY RESTRAINING ORDER”**

On February 3, 2011, Petitioner Van Jenkins, a state inmate currently incarcerated at the Ojibway Correctional Facility in Marenisco, Michigan, filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254, alleging that he is incarcerated in violation of his constitutional rights. Pending before the court is Petitioner’s “Motion for Temporary Restraining Order.” For the reasons stated below, the court will deny the motion.

This motion seeks an order prohibiting officials from retaliating against Petitioner for filing grievances. As this motion seeks an injunction regarding the conditions of Petitioner’s confinement, rather than the validity of Petitioner’s confinement itself, the motion is inappropriate in a § 2254 petition. See *Hodges v. Bell*, 170 F. App’x 389, 392 (6th Cir. 2006). Such a motion could be appropriately brought in a civil rights complaint pursuant to 42 U.S.C. § 1983.¹ *Id.* “Constitutional claims that merely challenge the

¹ The court is neither inviting such an action nor commenting upon the likelihood of the legitimacy of such an action.

conditions of a prisoner's confinement, whether the inmate seeks monetary or injunctive relief, fall outside of that core [of habeas corpus] and may be brought pursuant to § 1983 in the first instance." *Id.* (quoting *Nelson v. Campbell*, 541 U.S. 637, 643 (2004) (modification in the original)). Petitioner's claim for relief from confinement under § 2254 is insufficient to provide this court with authority to grant the injunctive relief regarding Petitioner's conditions of confinement, as presented in the instant motion. *Id.* at 395. The court must, therefore, deny the motion.

IT IS ORDERED that Petitioner's "Motion for Temporary Restraining Order" [Dkt. # 4] is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 23, 2011

I hereby certify that a copy of the foregoing document was mailed to Petitioner Van Jenkins, #172475, Ojibway Correctional Facility, N5705 Ojibway Rd., Marenisco, MI 49947, on this date, March 23, 2011 by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522