

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES EDWIN JOHNSON, II,

Plaintiff,

Civil Action No. 11-CV-10652

vs.

HON. BERNARD A. FRIEDMAN

JOSEPH THIVIERGE, et al.,

Defendants.

**ORDER ACCEPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

This matter is presently before the court on plaintiff’s motion for summary judgment [docket entry 21]. Magistrate Judge David R. Grand has submitted a Report and Recommendation (“R&R”) in which he recommends that the court deny the motion. The magistrate judge also recommends that the court *sua sponte* dismiss the complaint insofar as it challenges the lawfulness of plaintiff’s confinement, as plaintiff’s exclusive remedy for seeking such relief in federal court is to seek a writ of habeas corpus, as plaintiff’s exclusive remedy for seeking such relief in federal court is to seek a writ of habeas corpus. No party has objected to the R&R and the 14-day objection period has expired. *See* Fed. R. Civ. P. 72(b)(2).

Having reviewed the R&R, the complaint and the motion papers, the court finds that the magistrate judge has correctly analyzed the issues and that his recommendation is sound. Accordingly,

IT IS ORDERED that the magistrate judge’s R&R dated December 16, 2011, is hereby accepted and adopted as the findings and conclusions of the court.

IT IS FURTHER ORDERED that plaintiff's motion for summary judgment [docket entry 21] is denied.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it challenges the lawfulness of plaintiff's incarceration.

S/Bernard A. Friedman  
BERNARD A. FRIEDMAN  
SENIOR UNITED STATES DISTRICT JUDGE

Dated: January 5, 2012  
Detroit, Michigan

I hereby certify that the foregoing document was served electronically on counsel of record on January 5, 2012 and or by U.S. Postal mail to James Johnson #531294, Richard A. Handlon Correctional Facility, 1728 Bluewater Highway, Ionia, MI 48846.

S/Felicia M. Moses for Carol Mullins  
Case Manager