

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GENE DIEHL,

Plaintiff,

File No. 1:12-CV-402

v.

HON. ROBERT HOLMES BELL

PAROLE BOARD MEMBER ANTHONY
KING, et al.,

Defendants.

**ORDER APPROVING AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

On May 4, 2012, United States Magistrate Judge Joseph G. Scoville issued a report and recommendation ("R&R") recommending that Plaintiff Gene Diehl's complaint be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A(b), and 42 U.S.C. § 1997e(c) because Defendant Parole Board Members Anthony King and Amy Bonito are immune from Plaintiff's damage suit, and, in addition, because Plaintiff's allegations that Defendants imposed unconstitutional conditions of parole fail to state a claim on which relief can be granted. (Dkt. No. 4, R&R.) Plaintiff filed objections to the R&R on May 24, 2012. (Dkt. Nos. 5, 7.)

Plaintiff's objections merely reiterate his assertion that prohibiting him from using alcohol violates his constitutional rights. Plaintiff has neither addressed, nor contradicted, the Magistrate Judge's determination that Defendants are immune from suit and that a parole

condition requiring abstinence from alcohol, especially when the parolee has been convicted of felony drunk-driving, does not state a constitutional violation. The Court agrees with the R&R that Plaintiff's complaint is subject to dismissal. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's objections to the R&R (Dkt. No. 5) are **OVERRULED**.

IT IS FURTHER ORDERED that the R&R (Dkt. No. 4) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's complaint is **DISMISSED** for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A, and 42 U.S.C. § 1997e(c).

IT IS FURTHER ORDERED that leave to appeal *in forma pauperis* is **DENIED** as any appeal would be frivolous and would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

Dated: July 8, 2013

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE