

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER PAYTON MAY-SHAW,

Plaintiff,

v.

CITY OF GRAND RAPIDS,

Defendants.

Case No. 1:20-cv-647

HON. JANE M. BECKERING

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendants filed motions to dismiss, and the matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court grant both motions and dismiss this case for lack of subject matter jurisdiction. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation, to which Defendants filed a response. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff's claims stem from the civil forfeiture of \$105,145.31 in relation to his 2018 criminal conviction. The Magistrate Judge determined that Plaintiff has suffered no injury related to the forfeiture and therefore lacks standing to bring suit because he has "no ownership interest in that property, having consented to the forfeiture and relinquished any and all claims to the

currency” (R&R, ECF No. 48 at PageID.354). The Magistrate Judge determined that Plaintiff’s civil case “ignores the explicit terms of the plea agreement” (*id.* at PageID.348).

In his Objections, Plaintiff asserts that he does have “a ownership and property interest in the currency seized” and emphasizes that the constitutional violations set forth in his Complaint “clearly occurred ‘before’ the plea agreement” (Pl. Obj., ECF No. 51 at PageID.362-363). However, as Defendants point out (Resp., ECF No. 52 at PageID.373), standing is assessed at the time a lawsuit is filed. *See Carney v. Adams*, ___ U.S. ___, ___; 141 S. Ct. 493, 499 (2020) (citing *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 191 (2000) (standing is assessed “at the time the action commences”)). Plaintiff’s objections therefore fail to demonstrate any factual or legal error in the Magistrate Judge’s analysis or conclusion.

Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. A Judgment will also be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 51) are DENIED, and the Report and Recommendation of the Magistrate Judge (ECF No. 48) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants’ motions to dismiss (ECF Nos. 26 & 29) are GRANTED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: March 22, 2022

/s/ Jane M. Beckering
JANE M. BECKERING
United States District Judge