

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

December 9, 2010

RE: VINCENT FRAZIER V. SUPT COLLINS, ETAL
CA No. 10-6726

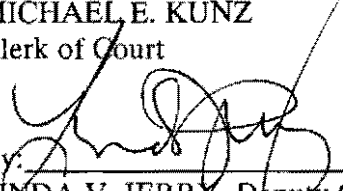
NOTICE

Enclosed herewith please find a copy of the Report and Recommendation filed by United States Magistrate Judge Hart, on this date in the above captioned matter. You are hereby notified that within fourteen (14) days from the date of service of this Notice of the filing of the Report and Recommendation of the United States Magistrate Judge, any party may file (in duplicate) with the clerk and serve upon all other parties written objections thereto (See Local Civil Rule 72.1 IV (b)). **Failure of a party to file timely objections to the Report & Recommendation shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court Judge.**

In accordance with 28 U.S.C. §636(b)(1)(B), the judge to whom the case is assigned will make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. The judge may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge, receive further evidence or recommit the matter to the magistrate judge with instructions.

Where the magistrate judge has been appointed as special master under F.R.Civ.P 53, the procedure under that rule shall be followed.

MICHAEL E. KUNZ
Clerk of Court

By: 
LINDA V. JERRY, Deputy Clerk

cc: FRAZIER

Courtroom Deputy to Judge Slomsky

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VINCENT FRAZIER : CIVIL ACTION
 :
 v. :
 :
 SUPERINTENDENT COLLINS, et al. : NO. 10-6726

REPORT AND RECOMMENDATION

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE

December 8, 2010

The petitioner, who is incarcerated at the State Correctional Institution at Frackville, Pennsylvania, seeks habeas relief in this court. SCI Frackville is located in Schuylkill County, Pennsylvania. The judgment of conviction, which is under attack by the petitioner, was entered in Monroe County, Pennsylvania.

A petitioner may file a habeas corpus petition in either the district court for the district where he is in custody or in the district court for the district in which he was convicted. 28 U.S.C. § 2241(d). Both Schuylkill County and Monroe County are located in the Middle District of Pennsylvania. 28 U.S.C. § 118(b). Therefore, the petitioner must file his petition in the United States District Court for the Middle District of Pennsylvania.

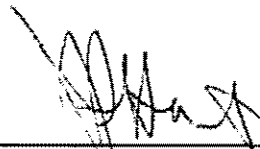
Since this district court does not have jurisdiction to consider Frazier's petition, the court may dismiss the petition entirely. 28 U.S.C. § 2241(d). However, where the district court lacks jurisdiction, it may, in the interest of justice, transfer the petition to a district court having jurisdiction over the matter. See Gutierrez v. Qunja, No. 08-112, 2008 WL 5225875 (E.D. Pa December 12, 2008); 28 U.S.C. § 1631. Considering the one-year limitations period imposed by 28 U.S.C. § 2241(d)(1), it is in the interest of justice to transfer Frazier's petition to

the Middle District of Pennsylvania.

Therefore, I make the following:

RECOMMENDATION

AND NOW, this 8th day of December, 2010, IT IS RESPECTFULLY
RECOMMENDED that the petition for writ of habeas corpus be TRANSFERRED TO THE
UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.
There has been no substantial showing of the denial of a constitutional right requiring the
issuance of a certificate of appealability. The petitioner may file objections to this Report and
Recommendation. See Local Civ. Rule 72.1. Failure to file timely objections may constitute a
waiver of any appellate rights.



JACOB P. HART
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VINCENT FRAZIER : CIVIL ACTION
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 v. :
 :
 SUPERINTENDENT COLLINS, et al. : NO. 10-6726

ORDER

JOEL H. SLOMSKY, J.

AND NOW, this day of , 2011, upon
careful and independent consideration of the petition for writ of habeas corpus, and after review
of the Report and Recommendation of United States Magistrate Judge Jacob P. Hart, IT IS
ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED.
2. The Clerk of Court is directed to TRANSFER the petition for habeas corpus to
the United States District Court for the Middle District of Pennsylvania..
3. There is no basis for the issuance of a certificate of appealability.

BY THE COURT:

JOEL H. SLOMSKY, J.