

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

SCOTT J. NJOS,	:	
Petitioner	:	
	:	CIVIL NO. 3:14-CV-0766
v.	:	
	:	
WARDEN THOMAS,	:	(Judge Kosik)
Respondent.	:	

**ORDER**

**AND NOW, THIS 9<sup>th</sup> DAY OF DECEMBER, 2016**, upon *de novo* review of Magistrate Judge Carlson’s Report and Recommendation (“R&R”) (Doc. 87), Petitioner’s Objections thereto (Doc. 88), Petitioner’s Comprehensive Verified Amended Petition for Writ of Habeas Corpus (Doc. 57), Petitioner’s Motion for Hearing (Doc. 72), Petitioner’s Motion Challenging the Bureau of Prisons’ Inmate Security Designation Policy (Doc. 74), Petitioner’s Motion for Summary Judgment (Doc. 80), and all accompanying supporting and opposing briefs, **IT IS HEREBY ORDERED THAT:**

- (1) The R&R (Doc. 87), is **ADOPTED in part** and **DENIED in part**;
- (2) The R&R is **DENIED** as to the recommendation that the Writ of Habeas Corpus be denied or transferred. Petitioner’s Writ of Habeas Corpus will be **GRANTED** to the extent that the BOP has not considered, in good faith, the 18 U.S.C. § 3621(b) factors, including the sentencing judge’s recommendation, as well as any other appropriate factors the BOP routinely considers, in its exercise of discretion in Petitioner’s prison transfers;
- (3) The R&R (Doc. 87), is **ADOPTED** as follows:

(a) the recommendation that Petitioner's motion for hearing (Doc. 72) be denied is adopted, but for the reasons stated herein, which differ from the Magistrate Judge's reasoning. The reason is that if the BOP has not considered the 18 U.S.C. § 3621(b) factors in Petitioner's transfers, the only relief Petitioner is entitled to is an order requiring the BOP to consider - in good faith - whether or not he should be transferred to a particular institution in light of the statutory factors. See Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 251 (3d Cir. 2005); Moncrieffe v. Yost, 367 F. App'x 286, 289 (3d Cir. 2010);

(b) the recommendation that Petitioner's motion for summary judgment (Doc. 80), be denied. Petitioner has failed to specifically object to this portion of the recommendation and upon reasoned consideration, the recommendation is adopted;

(c) the recommendation that Petitioner's motion for declaratory judgment (Doc. 74), be denied is adopted, but for the reason that given the conditional grant of the Writ as set forth above, this argument is moot;

- (4) Petitioner's motion for hearing (Doc. 72) is **DENIED**;
- (5) Petitioner's motion for summary judgment (Doc. 80), is **DENIED**;
- (6) Petitioner's motion for declaratory judgment (Doc. 74), is **DENIED**; and
- (7) The Clerk of Court is **DIRECTED** to **CLOSE** the case.

s/Edwin M. Kosik  
Edwin M. Kosik  
United States District Judge