



appropriate form of action for an inmate who seeks to recover money damages for unconstitutional conditions of confinement. *Richardson v. Fleming*, 651 F.2d 366 (5th Cir. 1981). In contrast, an inmate who challenges the fact that he is confined must pursue his claim in a petition for writ of habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475 (1973). The core issue in determining what type of action a claim must be asserted in is to determine whether the inmate is challenging the fact or duration of his confinement or the conditions of his confinement. *Spina v. Aaron*, 821 F.2d 126 (5th Cir. 1987).

Petitioner state his good conduct time credits were restored following the reversal of his conviction. As a result, a finding in his favor in this lawsuit will have no effect on the fact or duration of his confinement. Petitioner's complaint regarding his lost property is a claim effecting the conditions of his confinement and, a result, may not be pursued in a petition for writ of habeas corpus. As a result, this lawsuit will be dismissed. The dismissal is without prejudice to petitioner's ability to file a civil rights lawsuit concerning his property.

Conclusion

For the reasons set forth above, this petition for writ of habeas corpus will be dismissed. A final judgment shall be entered in accordance with this memorandum opinion.

**SIGNED** this the **23** day of **December, 2009**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge