

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BRIAN PETER STEWART,

Plaintiff,

v.

MEMORANDUM and ORDER
05-C-631-S

KENNETH BOBER and MARY ANN
KAMPE,

Defendants.

Plaintiff Brian Stewart filed this civil action on October 28, 2005 together with the filing fee. He is challenging his confinement to a half way house which is a condition of his parole.

On November 18, 2005 defendants filed a motion to dismiss plaintiff's complaint. Plaintiff's response to the motion was due on December 8, 2005 and has not been filed to date.

MEMORANDUM

Plaintiff claims that his confinement to a halfway house upon his release from prison has extended his mandatory release date without due process. Plaintiff's claim against defendants is a constitutional challenge to the duration of his confinement. Such challenge must be brought by a petition for a writ of habeas corpus not as a civil rights action under 42 U.S.C. § 1983. Williams v.

Wisconsin, 336 F.3d 576 (7th Cir. 2003), Drollinger v. Milligan, 552 F.2d 1220 (7th Cir. 1977). Pursuant to 28 U.S.C. § 2254 plaintiff would first have to exhaust his state court remedies before filing his petition for a writ of habeas corpus in this Court.

Plaintiff is advised that in any future proceedings in this matter he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claim must be dismissed. See Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997).

ORDER

IT IS ORDERED that defendants' motion to dismiss plaintiff's complaint is GRANTED.

IT IS FURTHER ORDERED that judgment be entered in favor of defendants against plaintiff DISMISSING his complaint and all claims contained therein without prejudice.

Entered this 14th day of December, 2005.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge