

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

MORRIS GARNER,)	
)	
Petitioner,)	
)	
v.)	CAUSE NO. 3:07-CV-020 WL
)	
WILLIAM WILSON,)	
)	
Respondent.)	

OPINION AND ORDER

Morris Garner, a *pro se* prisoner, filed this habeas corpus petition attempting to challenge his 30 day suspension on September 26, 2006 in case WCC 06-09-0249 by the Disciplinary Hearing Board (DHB) at the Westville Correctional Facility.

If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner.

Section 2254 Habeas Corpus Rule 4.

Mr. Garner states that he was found guilty with “30 days time deprivation (suspended). Such sanction deprives the petitioner of schooling and associated time cuts.” (docket 1, page 1). A prison disciplinary proceeding can only be challenged where it results in the lengthening of the duration of confinement. *Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003). There are many types of credits which would reduce the length of time Mr. Garner is incarcerated, including school credits. However, there is a difference between losing credits that one is mandatorily entitled to or has already earned, and losing the opportunity

to earn additional credits that may shorten the length of confinement. In other words, even if Mr. Garner had alleged that he his only sanction was that he was denied the opportunity to attend school, this sanction is not actionable in a habeas corpus proceeding because it did not lengthen the duration of his confinement.

Mr. Garner has not alleged that he lost any credits that he had already earned or that he was mandatorily entitled to. Receiving a suspended sentence did not lengthen the duration of his confinement and therefore is not actionable in a habeas corpus proceeding.

For the foregoing reasons, the court **DISMISSES** the petition **WITHOUT PREJUDICE**.

SO ORDERED.

ENTERED: January 22, 2007.

s/William C. Lee
William C. Lee, Judge
United States District Court