

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

MACEO NEAL,)	
)	
Petitioner,)	
)	
v.)	CAUSE NO. 3:07-CV-088 AS
)	
SHERIFF ST. JOSEPH COUNTY JAIL,)	
)	
Respondent.)	

OPINION AND ORDER

Maceo Neal, a *pro se* prisoner, filed this habeas corpus petition attempting to challenge the denial of his right to a speedy trial in 71D01-0606-FA-0028 in the St. Joseph Superior Court. Mr. Neal seeks the, “[d]ismissal of said cause due to the violation of my rights for speedy trial guaranteed under the Sixth Amendment of the U.S. Constitution.” Petition at 9.

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that--

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B) (i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

28 U.S.C. § 2254(b)(1).

Indiana provides a remedy for the denial of a speedy trial, but Mr. Neal has not exhausted his claim by attempting to utilize them. IND. R. CRIM. P. 4 provides a remedy in the state trial court and a Writ of Mandamus provides a remedy in the Indiana Supreme Court. *See Bramley v. Tipton Circuit Court*, 835 N.E. 2d 479 (Ind. 2005).

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. Here, Mr. Neal is plainly not entitled to relief on this petition: his claims are procedurally defaulted because they have not yet been presented to the Indiana Supreme Court.

For the foregoing reasons, the habeas corpus petition is **DISMISSED** pursuant to Section 2254 Habeas Corpus Rule 4.

IT IS SO ORDERED.

ENTERED: March 7, 2007

S/ ALLEN SHARP

ALLEN SHARP, JUDGE
UNITED STATES DISTRICT COURT