

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**HERBERT CUMMINGS**

**PETITIONER**

v.

**CASE NO.: 3:11CV00215-JMM-BD**

**MIKE ALLEN, Sheriff,  
Crittenden County, Arkansas**

**RESPONDENT**

**ORDER**

Herbert Cummings brings a petition for writ of habeas corpus under 28 U.S.C. § 2254. (Docket entry #1) In the petition, Mr. Cummings claims he is currently being held in the Crittenden County Detention in violation of his constitutional rights, because there are no charges pending against him.

Unfortunately for Mr. Cummings, this Court is without jurisdiction to hear his petition. Under 28 U.S.C. §2254, a habeas petition may be brought in the district court only “on behalf of a person in custody pursuant to the *judgment* of a State court.” 28 U.S.C. §2254(b)(emphasis added). Here, Mr. Cummings states that he is being held without having been convicted of anything and with no pending charges against him. Thus, Mr. Cummings is not in custody under a judgment of the State court, and this court lacks jurisdiction to hear his claim.

Mr. Cummings’s petition for writ of habeas corpus (#2) is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases, and his motion for leave to proceed *in forma pauperis* (#1) is dismissed as moot.

IT IS SO ORDERED, this 3<sup>rd</sup> day of November, 2011.

  
UNITED STATES DISTRICT JUDGE