

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

CHARLES ANTHONY	)	
MCMICHAEL,	)	
	)	
Petitioner,	)	
	)	
vs.	)	CAUSE NO. 2:17-CV-204
	)	
SHERIFF,	)	
	)	
Respondent.	)	

**OPINION AND ORDER**

This matter is before the Court on the Petition under 28 U.S.C. Paragraph 2254 and 2241 for Writ of Habeas Corpus filed by Charles Anthony McMichael, a pro se prisoner. For the reasons set forth below, the court **DENIES** the habeas corpus petition **WITHOUT PREJUDICE**. The clerk is **DIRECTED** to close this case.

**DISCUSSION**

McMichael is being held in the Lake County Jail as a pre-trial detainee. ECF 1 at 1. He is asking to be released and the charges against him dismissed. "Ordinarily the attempt of a state prisoner to obtain federal habeas corpus relief in advance of his state criminal trial [is] completely hopeless." *United States ex rel. Stevens v. Circuit Court of Milwaukee County*, 675 F.2d 946, 947 (7th Cir. 1982). This is one of those ordinary cases. Though

the circuit in *Stevens* provided for a narrow exception to entertain some double jeopardy claims, this case does not present a double jeopardy claim. Here, McMichael argues he was not indicted by a grand jury, in violation of the Fifth Amendment. He also alleges that he has been denied access to evidence. These are questions to be resolved in the first instance by the State trial court or the State Appellate Courts - not this Court. Thus, to the extent that McMichael believes that he has a viable defense to the charges against him, he needs to first present those claims to the State courts - at trial, on appeal, and ultimately to the Indiana Supreme Court. See *Lewis v. Sternes*, 390 F.3d 1019, 1025-1026 (7th Cir. 2004). Therefore, this petition will be dismissed without prejudice. Then, after he has properly presented his claims to the Indiana Supreme Court, he may return to this Court and file another habeas corpus petition challenging the conviction, if necessary.

#### CONCLUSION

For the reasons set forth above, the Court **DENIES** the habeas corpus petition **WITHOUT PREJUDICE**. The clerk is **DIRECTED** to close this case.

**DATED: June 5, 2017**

**/s/RUDY LOZANO, Judge**  
**United States District Court**