

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

OMARR ROYALE WILLIAMS-BEY,)	
)	
Petitioner,)	
)	CAUSE NO. 2:17-CV-244
vs.)	
)	
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 Omarr Royale Williams-Bey, a prisoner without a lawyer, on May 31, 2017. For the reasons set forth below, the court **DENIES** habeas corpus relief pursuant to Section 2254 Habeas Corpus Rule 4 because the petition is unexhausted, **DENIES** a certificate of appealability pursuant to Section 2254 Habeas Corpus Rule 11, and **DENIES** Omaar Royale Williams-Bey leave to appeal in forma pauperis pursuant to 28 U.S.C. § 1915(a)(3). The clerk is **DIRECTED** to close this case.

DISCUSSION

In his petition, Williams-Bey's challenges his status as a pre-trial detainee. From his petition, it appears that he is currently being held without bond at the Lake County Jail on

charges of robbery. "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, Williams-Bey argues that he has been denied various due process rights regarding his criminal charges. However, 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 Williams-Bey 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.

Pursuant to Section 2254 Habeas Corpus Rule 11, a court must consider whether to grant or deny a certificate of appealability. *Evans v. Circuit Court of Cook Cty., Ill.*, 569 F.3d 665, 666 (7th

Cir. 2009) (pretrial detainee cannot appeal without a certificate of appealability). To obtain a certificate of appealability when the court dismisses a petition on procedural grounds, the petitioner must show that reasonable jurists would find it debatable (1) whether the court was correct in its procedural ruling and (2) whether the petition states a valid claim for denial of a constitutional right. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Here, there is no basis for finding that jurists of reason would debate the correctness of this procedural ruling. Therefore there is no basis for encouraging petitioner to proceed further. Thus a certificate of appealability must be denied. For the same reasons, he may not appeal in forma pauperis because an appeal could not be taken in good faith.

CONCLUSION

For the reasons set forth above, the Court **DENIES** habeas corpus relief pursuant to Section 2254 Habeas Corpus Rule 4 because the petition is unexhausted, **DENIES** a certificate of appealability pursuant to Section 2254 Habeas Corpus Rule 11, and **DENIES** Omaar Royale Williams-Bey leave to appeal in forma pauperis pursuant to 28 U.S.C. § 1915(a)(3). The clerk is **DIRECTED** to close this case.

DATED: August 11, 2017

/s/RUDY LOZANO, Judge
United States District Court