

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

THOMAS ANTHONY PICA,)
)
 Petitioner,)
)
 v.)
)
 JULIANNE IVORY and COMMISSIONER,)
 INDIANA DEPARTMENT OF CORRECTION.)
)
 Respondents.)

CAUSE NO. 3:10-CV-0258 WL

OPINION AND ORDER

This matter is before the Court on the Petitioner’s motion to reconsider the dismissal of grounds five, six, and elements of ground two of his petition for writ of habeas corpus, which the court because they did not assert violation of the United States Constitution, laws or treaties, and therefore state no claim upon which relief can be granted. The Petitioner asks “that this court move toward reinstating these three grounds as the issues as originally submitted are violations of United States law and Indiana law . . .” (DE 10 at 2).

Under 28 U.S.C. § 2254(a), federal courts “shall entertain an application for writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” Relief in this action is only available from violation of the federal Constitution or laws. *Estelle v. McGuire*, 502 U.S. 62 (1991). This court dismissed grounds two, five, and six of the Petitioner’s petition for writ of habeas corpus because they involved only state law claims.

The Petitioner attaches to his motion to reconsider an opinion an Indiana appellate court opinion which he suggests supports his argument that these claims deal with federal law issues. But the Indiana appellate court opinion he submits deals with a civil case, not a criminal prosecution. Moreover, nothing in that opinion deals with violation of federal law; the opinion deals solely with Article One, Section Twenty Two of the Indiana Constitution and Indiana statutes. Nothing in the Indiana Court of Appeals opinion the Petitioner attaches to his motion to reconsider supports his claim that grounds five, six, and elements of ground two of his petition for writ of habeas corpus state a claim upon which relief can be granted.

For the foregoing reasons, the Court now DENIES the Petitioner's motion to reconsider the dismissal of grounds five, six, and elements of ground two of his petition for writ of habeas corpus (DE 10).

SO ORDERED

DATED: December 20, 2010

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