

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

MICHAEL HUNTER,	)	
	)	
Petitioner,	)	
	)	NO. 3:10 CV 491 JM
v.	)	
	)	
SHERIFF,	)	
	)	
Respondent.	)	

OPINION AND ORDER

Michael Hunter, a *pro se* prisoner, filed a hand-written habeas petition in the Southern District of Indiana, which was transferred to this Court. (DE #1, #9.) The Court is obligated to review the petition and dismiss it if “it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief . . . .” RULE 4 OF THE RULES GOVERNING SECTION 2254 CASES.

In the petition, Hunter asserts that he is being held in the custody of the Sheriff of Vanderburgh County on a pending criminal charge. (DE #1 at 1.) He wants this Court to dismiss the charges and order his immediate release. (*Id.*) He first claims that he is being denied access to blank paper, a typewriter, and materials in the law library. (*Id.* at 1-2.) These claims pertain to the conditions of confinement rather than the legality of the confinement itself, and are not cognizable in a habeas corpus proceeding. *See Moran v. Sondalle*, 218 F.3d 647, 650 (7th Cir. 2000).

Hunter also claims that his court-appointed attorney is refusing to withdraw in accordance with his wishes and that his speedy trial rights are being violated in the

pending state case. (DE #1 at 3-4.) As a general matter, a state prisoner cannot obtain federal habeas relief in advance of his criminal trial. See *United States ex rel. Stevens v. Circuit Court of Milwaukee*, 675 F.2d 946, 947 (7th Cir. 1982). The only recognized exception to this rule is where the prisoner alleges a double jeopardy violation. *Id.* at 949. Hunter does not allege a double jeopardy violation, and so the petition must be dismissed. He is free to present his claims to the state courts, but federal habeas relief is not available until the state process has been completed.

For the reasons set forth above, the petition (DE #1) is **DISMISSED**.

**SO ORDERED.**

Date: December 1, 2010

s/James T. Moody  
JUDGE JAMES T. MOODY  
UNITED STATES DISTRICT COURT