

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

TYRONE FRAZIER,	)	
	)	
Petitioner,	)	
	)	
v.	)	CAUSE NO. 3:13-CV-1335-TS
	)	
SUPERINTENDENT,	)	
	)	
Respondent.	)	

**OPINION AND ORDER**

Tyrone Frazier, a *pro se* prisoner, filed this habeas corpus petition attempting to challenge his guilty plea for Possession of Marijuana and his sentence of two years probation by the Marion Superior Court on March 10, 1988. To obtain habeas corpus relief, a petitioner must be “in custody.” 28 U.S.C. § 2254(a). This requires that the “habeas petitioner be ‘in custody’ under the conviction or sentence under attack at the time his petition is filed.” *Maleng v. Cook*, 490 U.S. 488, 490–91 (1989). Here, Frazier’s probation on this conviction ended decades ago and— though he is currently in prison—he is not “in custody” on this charge. Because he is not “in custody” on the conviction he is attempting to challenge, this court lacks subject matter jurisdiction. *See Id.* at 493.

For the foregoing reasons, this case is DISMISSED for want of subject matter jurisdiction.

SO ORDERED on December 23, 2013.

s/ Theresa L. Springmann  
THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT  
FORT WAYNE DIVISION