

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

| | | |
|------------------------------|---|---------------------|
| DAVID OLIVER, |) | |
| |) | |
| vs. |) | 1:11-CV-988-TWP-DKL |
| |) | |
| KEITH BUTTS, Superintendent, |) | |
| |) | |
| Respondent. |) | |

Entry Discussing Petition for Writ of Habeas Corpus

This cause is before the court on the petition for a writ of habeas corpus of David Oliver. Oliver's request to proceed *in forma pauperis* is **granted**.

Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). This authority is conferred by Rule 4 of the *Rules Governing Section 2254 Cases in United States District Courts*. This is an appropriate case for such a disposition.

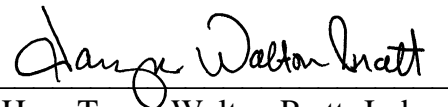
A federal court may issue a writ of habeas corpus pursuant to 28 U.S.C. 2254(a) only if it finds the applicant is in custody in violation of the Constitution or laws or treaties of the United States. *Id.* Oliver is confined at an Indiana prison. He seeks relief from a disciplinary proceeding identified as No. ISR 11-06-0058, wherein he was sanctioned with a period of time in disciplinary segregation. This sanction was non-custodial. *Mamone v. United States*, 559 F.3d 1209 (11th Cir. 2009); *Virsnieks v. Smith*, 521 F.3d 707, 713 (7th Cir. 2008). A sanction which does not constitute custody cannot be challenged in an action for habeas corpus relief. *Cochran v. Buss*, 381 F.3d 637, 639 (7th Cir. 2004); *Montgomery v. Anderson*, 262 F.3d 641, 644-45 (7th Cir. 2001). Because Oliver's habeas petition shows on its face that he is not entitled to the

relief he seeks, the action is **summarily dismissed** pursuant to *Rule 4*.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 08/05/2011


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

Distribution:

David Oliver
DOC #906826
PENDLETON CORRECTIONAL FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
Pendleton, IN 46064