

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ANTHONY D. OKPEKU # 107662	*	
Petitioner	*	
v	*	Civil Action No. DKC-12-2978
UNITED STATES OF AMERICA	*	
Respondent	*	

MEMORANDUM OPINION

Pending is self-represented Petitioner Anthony Okpeku’s Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, challenging the verdict of a Circuit Court for Montgomery County jury which found him guilty of malicious destruction of property and disorderly conduct. Okpeku is scheduled for sentencing on November 5, 2012.¹

Under 28 U.S.C. § 2254(a), federal courts have jurisdiction to entertain applications for habeas corpus only if the petitioner is “in custody” pursuant to a state court judgment in violation of laws, treaties or the Constitution of the United States. *See Carafas v. LaVallee*, 391 U.S. 234, 238 (1968). Petitioner is awaiting sentencing and is not yet in custody pursuant to a state court judgment. As such, he is not entitled to relief under § 2254.

Further, when filing a federal habeas corpus application under 28 U.S.C. § 2254, a petitioner must show that all of his claims have been presented to the state courts. *See* 28 U.S.C. § 2254(b) and (c); *see also Preiser v. Rodriguez*, 411 U.S. 475, 491 (1973). The exhaustion requirement is satisfied by seeking review of the claim in the highest state court with jurisdiction to consider it. In Maryland, this may be accomplished either on direct appeal or in post-conviction proceedings. To exhaust a claim through post-conviction proceedings, it must be

¹ This information was obtained from the Maryland Judiciary Case Website at:
<http://casesearch.courts.state.md.us/inquiry/inquiryDetail.jis?caseId=121382C&loc=68&detailLoc=MCCR>

