

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THEODORE KENDRIX,

Petitioner,

v.

CASE NO. 2:07-CV-13088

HONORABLE VICTORIA A. ROBERTS

UNITED STATES,

Respondent.

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ORDER OF DISMISSAL

Petitioner Theodore Kendrix has filed a *pro se* application for the writ of habeas corpus under 28 U.S.C. § 2241. The habeas petition alleges that Petitioner was convicted earlier this year of possessing marijuana in violation of 21 U.S.C. § 822. Petitioner alleges that he was sentenced to one year of supervised release.¹ The sole ground for relief is that the District Court violated Petitioner's right to due process when it denied Petitioner's motion to dismiss the indictment for lack of subject matter jurisdiction.

The habeas petition is, in essence, an attack on Petitioner's federal conviction and sentence. "Typically, a federal prisoner may file a § 2241 petition contesting the legality of his detention only if his claim is such that he cannot obtain effective relief on direct appeal or through a § 2255 motion." *Garcia-Echaverria v. United States*, 376 F.3d 507, 510 (6th Cir.

¹ The docket for Petitioner's criminal case indicates that Petitioner was sentenced on March 30, 2007, to one day, time served, followed by one year of supervised release. Petitioner subsequently violated the terms of supervised release and was sentenced on June 14, 2007, to seven months in custody. *See United States v. Kendrix*, No. 2:06-cr-20482-1 (E.D. Mich.). Petitioner currently is incarcerated at the Federal Detention Center in Milan, Michigan.

2004). Petitioner has not appealed his conviction, nor shown that a motion under 28 U.S.C. § 2255 “is inadequate or ineffective to test the legality of his detention.” 28 U.S.C. § 2255 ¶ 5. Therefore, his challenge to the District Court’s subject matter jurisdiction in his criminal case is not cognizable under § 2241. The habeas petition [dkt. #1, July 23, 2007] is **SUMMARILY DISMISSED** pursuant to Rules 1(b) and 4 of the Rules Governing Section 2254 Cases in the United States District Court.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: July 31, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se petitioner by electronic means or U.S. Mail on July 31, 2007.

s/Carol A. Pinegar
Deputy Clerk