

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD FLYNN,

Petitioner,

v.

CASE NO. 10-14131
HONORABLE DENISE PAGE HOOD

WAYNE COUNTY JAIL,

Respondent.

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ORDER DENYING PETITIONER'S MOTION FOR REINSTATEMENT

On October 14, 2010, petitioner Donald Flynn filed a *pro se* petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254. The habeas petition challenged Petitioner's Wayne County conviction and sentence of one year for aggravated indecent exposure, Mich. Comp. Laws § 750.335a(2)(b).

Petitioner challenged the same conviction and sentence on the same grounds in a prior habeas petition that was assigned to United States District Judge Thomas L. Ludington on September 30, 2010. See *Flynn v. Wayne County Jail*, No. 1:10-13906 (E.D. Mich. Sept. 30, 2010). Consequently, on October 29, 2010, this Court dismissed the habeas petition in this case on the ground that it was a duplicate of the petition pending before Judge Ludington.

This matter is now pending before the Court on Petitioner's motion for reinstatement of his habeas petition. Petitioner alleges that Judge Ludington dismissed his petition in case number 1:10-13906 and that this Court is now free to adjudicate his claims.

Judge Ludington dismissed Petitioner's earlier petition without prejudice because Petitioner had not exhausted state remedies for his claims, as required by 28 U.S.C. § 2254(b)(1). This Court may not overturn another judge's decision. Furthermore, Petitioner's motion for reinstatement seeks money damages "for every day of incarceration." Mot. for Reinstatement at 6. "[D]amages are not an available habeas remedy." *Nelson v. Campbell*, 541 U.S. 637, 646 (2004); accord *Muhammad v. Close*, 540 U.S. 749, 750-51 (2004) (*per curiam* opinion recognizing that damages are unavailable in habeas); *Wolff v. McDonnell*, 418 U.S. 539, 554 (1974) (acknowledging that "habeas corpus is not an appropriate or available remedy for damages claims"). Accordingly, the motion for reinstatement of the habeas petition [Dkt. #5] is **DENIED**.

s/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: April 18, 2011

I hereby certify that a copy of the foregoing document was served upon Donald Flynn, 3775 Hayes, Wayne MI 48184 and counsel of record on April 18, 2011, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager