

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

OREON J. HUFFMAN,)	CASE NO. 1:09 CV 1860
)	
Petitioner,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
STATE OF OHIO,)	<u>AND ORDER</u>
)	
Respondent.)	

On August 10, 2009, petitioner pro se Oreon J. Huffman, an inmate at the Ohio State Penitentiary Correctional Campe, filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. The petition seeks to challenge Huffman's November 2008 conviction in the Cuyahoga County Court of Common Pleas. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is apparent of the face of the petition that Huffman has a direct appeal pending in the Ohio Court of Appeals. Thus,

without regard to the potential merits of the grounds he seeks to raise in this case, the petition is obviously premature.

Accordingly, the request to proceed in forma pauperis is granted, and this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE