

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

ERIC TUTSTONE,	)	CASE NO. 1:11 CV 2577
	)	
Petitioner,	)	JUDGE JOHN R. ADAMS
	)	
v.	)	
	)	<u>MEMORANDUM OF OPINION</u>
UNITED STATES OF AMERICA,	)	<u>AND ORDER</u>
	)	
Respondent.	)	

On November 28, 2011, Petitioner *pro se* Eric Tutstone filed the above-captioned *in forma pauperis* habeas corpus action under 28 U.S.C. § 2241. Petitioner challenges his current pretrial detention at the Bedford Correctional Facility awaiting resolution of the criminal case against him pending in this Court. *United States v. Tutstone*, Case No. 1:11 CR 004.

Petitioner asserts his continuing detention violates his Sixth Amendment right to a speedy trial. Habeas corpus, however, is not the appropriate vehicle for him to challenge his pending criminal proceedings. The Supreme Court has held that “in the absence of exceptional circumstances in criminal cases the regular judicial procedure should be followed and habeas corpus should not be granted in advance of a trial.” *Jones v. Perkins*, 245 U.S. 390, 391 (1918); *see also*, *Sandles v. Hemmingway*, 22 F. App’x 557, 557(6th Cir. 2001)(claim that would be dispositive of underlying criminal charge must be exhausted at trial and on appeal before habeas corpus relief is sought). The undersigned presided over the underlying criminal trial, which has now concluded. As such, the Court is abundantly aware that no exceptional circumstances exist.

Accordingly, the Petition is denied and this action is dismissed pursuant to 28 U.S.C. § 2243. 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.

IT IS SO ORDERED.

Date: December 29, 2011

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s/John R. Adams  
JOHN R. ADAMS  
UNITED STATES DISTRICT JUDGE