

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

MELVIN MILES,	)	CASE NO. 1:14 CV 1984
	)	
Petitioner,	)	JUDGE PATRICIA A. GAUGHAN
	)	
v.	)	
	)	<u>MEMORANDUM OF OPINION</u>
MARGARET BRADSHAW,	)	<u>AND ORDER</u>
	)	
Respondent.	)	

On September 8, 2014, Petitioner *pro se* Melvin Miles, an inmate at the Richland Correctional Institution, filed the above-captioned action for writ of habeas corpus under 28 U.S.C. § 2254. The Petition challenges his 1991 conviction, pursuant to a guilty plea, for Aggravated Murder with a Firearm Specification. 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).

As grounds for the Petition, Miles asserts the Ohio Parole Authority's October 2013 denial of parole, and the trial court's subsequent denial of his motion to withdraw his guilty plea, violated due process. It is apparent on the face of the Petition, however, that he has an appeal concerning this issue pending in the Ohio Court of Appeals. Thus, without regard to the potential merits of the ground sought to be raised herein, the Petition is premature for failure to

exhaust state court remedies.

Accordingly, 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.

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
UNITED STATES DISTRICT JUDGE

Dated: 9/17/14