UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KEVIN L. HICKS,	)	CASE NO. 5:08 CV 1325
	)	
Petitioner,	)	JUDGE SARA LIOI
	)	
v.	)	
	)	MEMORANDUM OF OPINION
STATE OF OHIO, et al.,	)	AND ORDER
	)	
Respondents.	)	

On May 30, 2008, petitioner *pro se* Kevin L. Hicks filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254, challenging his November 2006 convictions for possession of marijuana and fictitious plates/improper registration.

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 on the face of the petition that Hicks has a direct appeal pending in the Ohio Court of Appeals, wherein he seeks to raise issues which are the subject of the within petition.

Thus, without regard to the potential merits of these issues, the petition is premature.

For the foregoing reasons, 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.

Dated: July 15, 2008

HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE