

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THERESA L. FERRELL, :
 :
 Plaintiff : Civil Action 2:09-cv-152
 :
 v. : Judge Marbley
 :
 THOMAS LOUDEN, *et al.*, : Magistrate Judge Abel
 :
 Defendant :

ORDER

This matter is before the Court pursuant to the March 12, 2009 Report and Recommendation of the Magistrate Judge (Doc. 2) that the Complaint be dismissed pursuant to Fed. R. Civ. Pro. 12(h)(3) because the Court lacks subject matter jurisdiction over this action.

Plaintiff brought this action against Judge Elizabeth Gill and Juvenile Magistrate Douglas Shoemaker of the Franklin County, Ohio Court of Common Pleas, Domestic Relations Division (the “domestic relations court”), and against Judge Thomas Louden, retired from the Delaware County Court of Common Pleas. She styled her complaint as “Complaint for Writ of Habeas Corpus to Obtain Children Taken Under Fraud by State Actors”, and alleges that her children were wrongfully removed by the domestic relations court. Plaintiff requests a writ of habeas corpus, as well as a new trial and effective assistance of counsel.

As the Magistrate Judge stated in his Report and Recommendation, the United States Supreme Court has held that federal courts do not have subject matter jurisdiction under 28 U.S.C. §2254 (the federal habeas corpus statute) to review state court judgments which involuntarily terminate parental rights.

Leham v. Lycoming County Children's Services, 458 U.S. 502, 510 (1982); see also *Jacobson v. Summit County Children Services Bd.*, 202 Fed. Appx. 88, 90 (6th Cir. 2006). This Court therefore cannot grant a habeas corpus petition which would overturn a child custody proceeding of the Franklin County domestic relations court.

If a court determines at any time that it lacks subject matter jurisdiction over an action, it must dismiss it. Fed. R. Civ. Pro. 12(h)(3). This Court does not have subject matter jurisdiction over this matter, and it must therefore be dismissed. The Report and Recommendation of the Magistrate Judge (Doc. 2) is **ADOPTED**. This action is hereby **DISMISSED WITH PREJUDICE**.

s/Algenon L. Marbley
United States District Judge