

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

TINA MARIE WELLS,)	
Petitioner,)	Civil Case No. 7:14cv00161
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
UNNAMED,)	By: Michael F. Urbanski
Respondent.)	United States District Judge

Tina Marie Wells, a Virginia inmate proceeding *pro se*, filed a pleading which the court construes as a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254.¹ In her petition, Wells alleges the following:

Ground One: The prosecution's burden of proof.

Supporting Facts: The hospital report from the University of Virginia Hospital's emergency room and triage report stated that it took 2 to 3 stitches to close the wound up. A Mannassas County Judge heard the case. Herman A. Whisenant, Jr. in Fluvanna combined district court on 10/21/2005.

Ground Two: The defendant's right to due process of the law.

Supporting Facts: Offense date 4/2/2005. Arrest date 4/3/2005. Grand jury 6/27/2005. True Bill—Case has been set. Trial 10/21/2005. From the date the charges were filed to the date of the trial. 120 days have expired.

Ground Three: A defendant's right to counsel.

Supporting Facts: Steven Shareff, Esq. of Louisa County, Virginia, (540)748-2176, P.O. Box 729, Louisa, VA 23093 (2005). Was the legal defense for Tina Marie Wells of Fluvanna County Virginia Court case was held in combined district court in Fluvanna County.

Ground Four: A defendant's right to a speedy trial.

Supporting Facts: Arrest date 4/3/2005. Trial date of 10/21/2005, 120 day for due process of the law has expired.

Upon initial review of Wells' pleading, the court conditionally filed the petition and advised Wells that it could not discern a cognizable federal habeas claim from the allegations in

¹ Wells filed her petition on a form for a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241; however, she appears to be challenging the legality of her 2005 conviction in the Fluvanna District Court for aggravated malicious wounding and, therefore, the court construes her pleading as a petition pursuant to § 2254.

her petition. The court directed Wells to submit a more definite statement of her claims within ten days. Wells did not respond.

Pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the court must dismiss a petition “if it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief” Because Wells alleges no cognizable federal habeas claim, the court finds that it plainly appears that she is not entitled to habeas relief.² Accordingly, the court dismisses this action without prejudice to Wells’ opportunity to refile her petition.

Entered: June 23, 2014

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge

² Moreover, it appears that Wells’ habeas petition is untimely filed.