

IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MARYLAND

ANDRE STUBBS, :  
Petitioner :  
v : Civil Action No.: WDQ-09-1461  
STATE OF MARYLAND, :  
Respondent :  
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MEMORANDUM

Petitioner Andre Stubbs filed the above-captioned Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 alleging violation of his rights under the Interstate Agreement on Detainers<sup>1</sup> (“IAD”). He seeks to have his federal and state court sentences vacated and to be immediately released. Paper No. 1. Because Petitioner has failed to exhaust his administrative remedies, the Petition will be dismissed without prejudice.

Petitioner has a lengthy criminal history with overlapping charges and convictions in state and federal courts. Paper No. 18. The thrust of Petitioner’s complaint is that at the time he was sentenced in this court, and the undersigned recommended he serve his federal sentence in a Maryland facility, he was no longer subject to a Maryland state sentence, and therefore all subsequent sentences are invalid.<sup>2</sup> Paper No. 1 & 24. In short, Petitioner challenges the calculation of his sentences.

Petitioner’s current projected release date for his federal sentence is August 28, 2017. *Id.*, Ex. 4. The maximum expiration date for his Baltimore City sentence, which runs consecutive to

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<sup>1</sup> Md. Code Correctional Services Article, 80401 *et seq* (2008 Replacement Volume); 18 U.S.C. Appendix 2.

<sup>2</sup> Petitioner is not entitled to relief from his federal conviction and sentence under the IAD. Contrary to his assertion, the detainer filed by the United States Marshal was not lodged pursuant to the IAD. At the time the detainer

Petitioner's federal sentence, is August 29, 2029. The maximum expiration date of his Baltimore County sentence, is November 3, 2019. *Id.*, Ex. 4. Petitioner did not appeal the Baltimore City or Baltimore County convictions or sentences, nor did he commence any post-conviction proceedings. *Id.*, Ex. 6 & 7.

Before a petitioner may seek habeas relief in federal court, he or she must exhaust each claim presented to the federal court through remedies available in state court. *See Rose v. Lundy*, 455 U.S. 509, 518 (1982); *see also, Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 490-91 (1973). A prisoner challenging the calculation of his release date has two possible avenues for relief in Maryland's state courts; by way of administrative proceeding and, in certain instances, by way of petition to the state courts.

Regardless of whether he believes he is entitled to an immediate release, a prisoner may challenge the calculation of his sentences and/or diminution credits through administrative proceedings by:

1. Filing a request under the administrative remedy procedure, Division of Correction Directive 185-001 *et seq.*, to the warden of the institution where he is confined;
2. Appealing a denial of the request by the warden to the Commissioner;
3. Filing a complaint with the Inmate Grievance Office, ("IGO");
4. Appealing a final decision of the IGO to the Circuit Court;
5. Filing an application for leave to appeal to the Court of Special Appeals from the decision of the Circuit Court; and
6. If the Court of Special Appeals grants the application for leave to appeal, but denies relief on the merits, seeking *certiorari* to the Court of Appeals.

A prisoner claiming an entitlement to an immediate release can also seek relief directly from the state courts by:

1. Filing a petition for writ of habeas corpus in a Circuit Court;
2. Appealing a decision by the Circuit Court to the Court of Special Appeals; and

