

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

PATRIC V. PALATTELLA,
Petitioner,

v.

**CIVIL ACTION NO. 3:05-CV-76
(BROADWATER)**

**THE PEOPLE OF WEST VIRGINIA;
DAWN C. HAYES, a/k/a Dawn C. Palattella;
THE CIRCUIT COURT IN AND FOR
BERKELEY COUNTY WEST VIRGINIA;
JANE and JOHN DOES; JUDGE WILLIAM
T. WERTMAN, JR.; and PAMELA JEAN
GAMES-NEELEY, Prosecuting Attorney,**

Respondents.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated January 5, 2006. The Petitioner filed objections to the Report on January 11, 2006. Accordingly, the Court conducted a *de novo* review of the Petition and the above referenced filings. Upon conclusion of its review, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Magistrate Judge found in his Report and Recommendation that the Petitioner primarily seeks to have the Court void a state court judgment denying Mr. Palatella custody of his child. As stated in the Magistrate's Report and Recommendation, according to the "domestic relations exemption," this Court has no jurisdiction over a case where the Petitioner is seeking, "a declaration of rights and obligations arising from [familial] status." McLaughlin v. Cotner, 193 F.3d 410, 414 (6th Cir. 1999).

In his objections to the Magistrate's Report and Recommendation, the Petitioner makes non-specific claims of due process violations, referencing page 21, paragraph 29 through page 23, paragraph 37 of his original Petition. Despite the Court's liberal construction of the *pro se* pleadings, the Petitioner does not make any discernable claim of a due process violation by the Berkeley County Circuit Court or any of the named Respondents. The Court finds no reasonable way to read the pleadings to state a valid claim upon which the Petitioner could prevail and it may not rewrite a petition to include claims that were never presented, see Barnett v. Hargett, 174 F.3d 1128, 1133 (10th Cir. 1999); Beaudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985), cert. denied, 475 U.S. 1088 (1986). The Court construes the action as a general grievance with the outcome of state court proceedings regarding the Petitioner's rights and obligations arising from parental status. Accordingly, this Court has no jurisdiction over the subject matter of the claim.

The Court therefore **ORDERS** that the above styled Petition be **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. Petitioner's Motion for Default Judgment (Document No. 4) is **DENIED as MOOT**. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the pro se petitioner and all counsel of record herein.

DATED this 24th day of March 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE