

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

ERSHELL STEVEN VANCE,)	
Petitioner,)	Civil Action No.7:06cv00178
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
GEORGE M. HINKLE, WARDEN,)	By: Samuel G. Wilson
Respondent.)	United States District Judge

Petitioner Ershell Steven Vance brings this 28 U.S.C. § 2254 petition, challenging his conviction in the Circuit Court of Tazewell County Virginia on three counts of distribution of methamphetamine. Vance raises a host of ineffective assistance claims arising out of his nolo contendere plea and a host of claims concerning the court’s handling of that plea. The court finds that Vance’s only properly exhausted claims of ineffective assistance of counsel were adjudicated in the state courts and that the adjudication was not contrary to clearly established federal law, based on an unreasonable application of federal law, or based on an unreasonable determination of fact, and that his remaining claims are procedurally defaulted or otherwise not cognizable in federal habeas. Therefore, the court grants respondent’s motion to dismiss.

I.

A Tazewell County grand jury indicted Vance on three counts of conspiracy to distribute and three counts of distribution of methamphetamine. Vance entered into a written plea agreement with the Commonwealth in which he agreed to plead “no contest” to the three distribution counts in exchange for the Commonwealth dropping the three conspiracy counts. The written agreement recited that it was the entire agreement between the parties and that there had been no other inducements or promises of any kind. Before entering his plea, Vance completed a nolo contendere plea form which contained a series of questions designed to ensure