

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ROGER D. BURRESS,

)

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Petitioner,

)

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v.

)

CIVIL ACTION NO. 2:14-27192

)

MARIA CRUZ, Warden,

)

)

Respondent.

)

MEMORANDUM OPINION AND ORDER

On October 23, 2014, Petitioner, acting *pro se* and incarcerated at FCI Williamsburg, filed his Application for Writ of *Habeas Corpus* by a Person in Federal Custody under 28 U.S.C. § 2241.¹ (Document No. 1.).

Pursuant to 28 U.S.C. § 2241(a), a writ of *habeas corpus* “may be granted by the Supreme Court, any justice thereof, the district court and any circuit judge *within their respective jurisdictions.*” 28 U.S.C. § 2241(a)(emphasis added). Title 28 U.S.C. § 2242 provides that a petitioner should name “the person who has custody over him” as the respondent to his *habeas* petition. 28 U.S.C. § 2242. The custodian is “the person with the ability to produce the prisoner’s body before the habeas court.” Rumsfeld v. Padilla, 542 U.S. 426, 434, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2006). The Court finds that Petitioner is currently incarcerated at FCI Williamsburg, which is located in Salters, South Carolina. This Court, however, does not have jurisdiction over Petitioner’s current warden, who is located in South Carolina. Jurisdiction with respect to the claims which

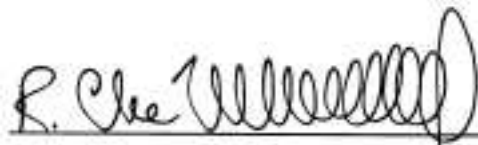
¹ Petitioner currently has a Section 2255 Motion pending before this Court. In his Section 2255 Motion, Petitioner argues that this Court lacked jurisdiction to indict, convict, and sentence him in Criminal Action No. 2:03-cr-00024. *Burgess v. United States*, Civil Action No. 2:14-24193 (S.D.W.Va.).

Petitioner raised herein is therefore in the District of South Carolina. Accordingly, the Court finds that the transfer of this matter is in the interest of justice and therefore warranted. See 28 U.S.C. § 1631.

Accordingly, it is hereby **ORDERED** that this matter is **TRANSFERRED** to the District of South Carolina pursuant to 28 U.S.C. § 1631. The Clerk is directed to **REMOVE** this matter from the Court's docket.

The Clerk is further directed to send a copy of this Memorandum Opinion and Order to Petitioner, who is acting *pro se*, and the Clerk of the Court for the United States District Court for the District of South Carolina.

ENTER: October 28, 2014.



R. Clarke VanDervort
United States Magistrate Judge