

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-7067**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THERESA SIRRI MUBANG,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:01-cr-00252-LMB-1)

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Submitted: September 30, 2013

Decided: October 9, 2013

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Before WILKINSON, MOTZ, and DIAZ, Circuit Judges.

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Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

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Theresa Sirri Mubang, Appellant Pro Se. Steve Alan Linick, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Theresa Mubang appeals a district court order denying her motion to modify restitution payments and her motion to vacate the restitution order. We affirm in part, vacate in part and remand.

In her motion to modify, Mubang was seeking a district court order directing the Bureau of Prisons to modify the payment schedule under the Inmate Financial Responsibility Program. Because Mubang was challenging the execution of her sentence, such a request should have been made in a 28 U.S.C.A. § 2241 (West 2006 & Supp. 2013) petition. See United States v. Diggs, 578 F.3d 318, 319 (5th Cir. 2009). Because Mubang is currently incarcerated at the SFF Hazelton in the Northern District of West Virginia, the district court in this instance did not have jurisdiction to entertain the request to modify the payment schedule because a § 2241 petition must be filed in the district of incarceration. See 28 U.S.C.A. § 2241(a); In re Jones, 226 F.3d 328, 332 (4th Cir. 2000). However, a district court must "if it is in the interest of justice, transfer [the petition] . . . to any other such court in which [it] could have been brought at the time it was filed[.]" 28 U.S.C. § 1631 (2006).

Accordingly, we vacate that part of the order denying Mubang's motion to modify and remand for the district court to

determine whether transferring Mubang's motion to modify to the proper federal district court would serve the interests of justice, see 28 U.S.C. § 1631, or whether the action is more appropriately dismissed without prejudice to allow Mubang to file her action in the appropriate district court.

Because Mubang did not establish any reason to grant her motion to vacate the order of restitution, we affirm for the reasons cited by the district court. United States v. Mubang, No. 1:01-cr-00252-LMB-1 (E.D. Va. June 14, 2013).

Accordingly, we affirm that part of the district court's order denying the motion to vacate and we vacate that part of the order denying the motion to modify and remand for further consideration by the district court in accordance with this opinion. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED IN PART,  
VACATED IN PART,  
AND REMANDED