

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

KELLEY P. MILLS
ADC #556245

PETITIONER

V.

NO. 4:10cv01158 JMM-JWC

DAVID PARKER, Warden,
James Crabtree Correctional Center, ODC

RESPONDENT

ORDER

Petitioner, currently incarcerated in the Oklahoma Department of Corrections (ODC), brings this *pro se* 28 U.S.C. § 2254 petition for writ of habeas corpus and applicable filing fee (doc. 1), along with a supporting brief (doc. 2). The petition challenges a 1985 capital murder conviction and sentence of life imprisonment without parole, arising out of the Circuit Court of Miller County, Arkansas.

District courts are limited to granting habeas relief “within their respective jurisdictions.” 28 U.S.C. § 2241(a). When a prisoner is challenging a state conviction arising out of a state with more than one federal judicial district, a federal habeas petition may be filed in the district court for the district where the prisoner is in custody, or for the district where he was convicted and sentenced. *Id.* § 2241(d). One district court, in the exercise of discretion and in furtherance of justice, may transfer a habeas petition to the other district for determination. *Id.*; *see also* 28 U.S.C. § 1404(a). 1406(a).

Petitioner is incarcerated at the ODC’s James Crabtree Correctional Center in Helena, Oklahoma, located in Alfalfa County in the Western District of Oklahoma. *See* 28 U.S.C. § 116(c). According to officials at the Arkansas Department of Correction (ADC), Petitioner is serving his challenged Arkansas sentence concurrently with an Oklahoma

state sentence, and will be returned at a future date to the ADC following completion of the Oklahoma sentence. Therefore, his current physical custodian – the warden of the ODC unit where he is incarcerated – resides outside the territorial jurisdiction of this Court.

Moreover, this is not the judicial district where Petitioner's challenged Arkansas conviction and sentence arose. Miller County is in the Western District of Arkansas. See *id.* § 83(b)(1). The interests of justice would best be served by transferring this case to the United States District Court for the Western District of Arkansas.¹

Accordingly, the Clerk of the Court is directed to immediately transfer Petitioner's entire case file to the United States District Court for the Western District of Arkansas, Texarkana Division, United States Courthouse and Post Office, 500 North Stateline Avenue, Room 302, Texarkana, Arkansas 71854.

IT IS SO ORDERED this 23rd day of August, 2010.


UNITED STATES MAGISTRATE JUDGE

¹Petitioner's custodial status is somewhat unclear in that the ODC website does not identify him as being within the Oklahoma prison system, while he is still identified as an Arkansas inmate on the ADC website. Nevertheless, territorial jurisdiction clearly lies in the Western District of Arkansas as the federal judicial district where the conviction and sentence was imposed.