

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANDRE JUSTE,
Petitioner,

v.

OFFICE OF THE DISTRICT CHIEF
COUNSEL,
Respondent.

Case No. 17-cv-03064 NC (PR)

ORDER OF TRANSFER

Petitioner, an immigration detainee, has filed a federal petition for writ of habeas corpus, under 28 U.S.C. § 2241.¹ Petitioner is currently being held at the Buffalo Federal Detention Facility in Buffalo, New York. According to the petition, it appears that Petitioner has a petition for review, challenging his order of removal, which is pending in the United States Court of Appeals for the Second Circuit. Pet. at 7. Petitioner’s underlying federal habeas petition appears to be challenging his current detention.

Section 2241 allows “the Supreme Court, any justice thereof, the district courts and

¹ Petitioner has consented to magistrate judge jurisdiction. Dkt. No. 5.

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any circuit judge” to grant writs of habeas corpus “within their respective jurisdictions.” 28 U.S.C. § 2241(a). In 1948, relying on the “within their respective jurisdictions” language, the Supreme Court held that personal jurisdiction over a federal habeas corpus petition lies exclusively in the single federal judicial district in which both the custodian of the prisoner and the prisoner reside. *Ahrens v. Clark*, 335 U.S. 188, 190-91 (1948). Where a petitioner is incarcerated in one state and files a Section 2241 petition in a federal district court in another state, therefore, the federal district court lacks jurisdiction over his custodian to effect process or enforce its orders and must accordingly transfer or dismiss the petition. *See, e.g., Hassain v. Johnson*, 790 F.2d 1420, 1420 (9th Cir. 1986) (no jurisdiction in California to address petition where inmate incarcerated in Arizona).

Because Petitioner is within the jurisdiction of the Western District of New York, this case is TRANSFERRED To the Western District of New York. *See* 28 U.S.C. § 1404(a). The Clerk is directed to transfer this matter forthwith.

IT IS SO ORDERED.

DATED: July 17, 2017


NATHANAEL M. COUSINS
United States Magistrate Judge