

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CARLTON LAMONT CHANEY,)
)
 Petitioner,)
vs.)
)
JAMES N. CROSS,)
)
 Respondent.)

Case No. 15-cv-211-DRH-CJP

ORDER

PROUD, Magistrate Judge:

This matter is before the Court on petitioner’s Motions for Appointment of Counsel, Docs. 27 & 30.

The Court denied a previous motion for appointment of counsel. See, Doc. 23. The instant motions are denied for the same reasons, i.e., there is no constitutional right to counsel in habeas corpus cases, petitioner has not demonstrated a sufficient attempt to secure counsel, and petitioner is capable of litigating this case himself.

Petitioner also has a successive motion under 28 U.S.C. §2255 pending in the Southern District of Indiana in which he raises a claim under *Johnson v. United States*, 135 S.Ct. 2551 (2015). He asks this Court to transfer his §2241 petition to the Southern District of Indiana. However, the proper respondent to a §2241 petition is the person who has custody of the petitioner. 28 U.S.C. §2242. Where, as here, the petition challenges the present custody, “the default rule is that the proper respondent is the warden of the facility where the prisoner is being held. . . .” *Rumsfeld v. Padilla*, 124 S. Ct. 2711, 2718 (2004). Petitioner is

not being held in the Southern District of Indiana, so transfer of the petition to that district is not warranted.

Petitioner is now assigned to FCI-Gilmer in West Virginia. Therefore, the warden of FCI-Greenville is no longer the proper respondent. Respondent is ordered to file a motion regarding the proper respondent by August 19, 2016.

Petitioner also states that he cannot respond to the Court's recent order because he does not have access to the opinion in *Montana v. Cross*, 2016 WL 3910054, issued on July 19, 2016. Respondent is ordered to mail a copy of the *Montana* opinion to petitioner. Petitioner is granted additional time, up to September 30, 2016, in which to file his memorandum regarding the application of *Montana* to this petition.

For the foregoing reasons, petitioner's Motions for Appointment of Counsel, Docs. 27 & 30, are **DENIED**.

IT IS SO ORDERED.

DATE: August 10, 2016.

s/ Clifford J. Proud
CLIFFORD J. PROUD
UNITED STATES MAGISTRATE JUDGE