

**FILED**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

NOV 21 2005  
RALPH DELONGCH, Clerk  
By *[Signature]* Deputy

GARY LEE HOLT,

Petitioner,

v.

DUKE TERRELL,

Respondent.

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05-3439-RDR

No. 4:05-CV-1568 CAS

*Katie Spurgeon*  
CLERK

**MEMORANDUM AND ORDER OF TRANSFER**

This matter is before the Court upon the petition of Gary Lee Holt for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

Petitioner, an inmate at the Federal Prison Camp at Leavenworth, Kansas, challenges whether the Bureau of Prisons "has discretionary authority to place [him] in a [Community Confinement Center] or home confinement prior to the last ten percent of his sentence."

Jurisdiction over a petition for a writ of habeas corpus under 28 U.S.C. § 2241 lies either in the district of physical confinement or in the district in which a custodian against whom the petition is directed is present. See McCoy v. United States Board of Parole, 537 F.2d 962, 964 (8th Cir. 1976). Petitioner is not confined within the Eastern District of Missouri, and there does not appear to be a custodian present in this district over whom this Court would have jurisdiction. Petitioner's custodian can be found in the District of Kansas.

Pursuant to 28 U.S.C. § 1631, a District Court which finds that it lacks jurisdiction to entertain a civil action may, if it is in the interest of justice, transfer such action to any other Court in which such action could have been brought. Upon transfer under § 1631, the action proceeds as if it had been originally filed in the Court to which it is transferred. The Court finds that it would be

in the interest of justice to transfer the instant case to the United States District Court for the District of Kansas.

Accordingly,

**IT IS HEREBY ORDERED** that this action shall be **TRANSFERRED** to the United States District Court for the District of Kansas. See 28 U.S.C. § 1631.

**IT IS FURTHER ORDERED** that the Clerk shall not issue process or cause process to be issued upon the said petition, because the petition is to be transferred.

Dated this 14th day of November, 2005.



**UNITED STATES DISTRICT JUDGE**