

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JESSE ROBINSON, # 413282-037 * 2013 MAY 20 A 11:40
* Civil Action No. RDB-13-1132
Petitioner *
*
v *
*
UNITED STATES OF AMERICA *
*
Respondent *

MEMORANDUM OPINION

Before the Court is Jesse Robinson's request for assistance in obtaining credit toward his federal sentence for time served "with the state." (ECF No. 1). Robinson, an inmate confined at the United States Penitentiary in Adelanto, California, was convicted of being a felon in possession of a firearm in violation of 18 U.S.C. 922(g) (1). He is serving a sentence of 220 months incarceration. *See United States v. Robinson*, Civil RDB-04-04-219). Robinson's request, treated as a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, will be dismissed without prejudice for lack of jurisdiction.

Habeas corpus relief is available under 28 U.S.C. § 2241 when a prisoner is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). When a prisoner seeks judicial review of the execution or calculation of his sentence, rather than the legality of the sentence itself, the appropriate remedy is a § 2241 habeas petition filed against the warden of the prison facility in the district where the prisoner is confined. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 495 (1973); *Rumsfeld v. Padilla*, 542 U.S. 426, 447, 434 n. 7 (2004); *Levine v. Apker*, 455 F.3d 71, 77-78 (2d Cir. 2006) (habeas petition filed under 28 U.S.C. § 2241 is the proper vehicle

to challenge Bureau of Prisons policy regarding petitioner's placement at federal prison instead of a community correctional facility).

Robinson is presently in the custody of the Warden, of the United States Penitentiary Victorville in Adelanto, California, a facility located in the Central District of California.¹ Accordingly, this case will be dismissed without prejudice for lack of jurisdiction so that Robinson may file for relief in the appropriate judicial district. A separate Order follows.

5/20/2013
Date

/s/
RICHARD D. BENNETT
UNITED STATES DISTRICT JUDGE

¹ The address for the United States District Court for the Central District of California is: U.S. Courthouse, is 312 North Spring Street, Los Angeles, CA 90012-4701. Petitioner is reminded that prisoners are generally required to exhaust available administrative remedies before filing a habeas corpus petition pursuant to 28 U.S.C. § 2241. This Court expresses no opinion as to the merits of his claims.