

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NICHOLAS QUEEN,

Petitioner

v.

U.S. MARSHALS,

Respondent

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Civil Action No. WMN-15-85

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MEMORANDUM OPINION

Nicholas Queen, a prisoner in the custody of the Federal Bureau of Prisons, housed at the United States Penitentiary in Atwater, California, filed a "Petition for Writ of Mandamus." ECF No. 1. Petitioner complains that he was improperly released from custody of the State of Maryland to Federal custody, the continuation of which is improper. Such a claim is properly construed as a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner has neither filed a Motion for Leave to Proceed in Forma Pauperis, nor paid the civil filing fee.

Subject matter jurisdiction of a § 2241 habeas corpus petition lies in the federal district court where Petitioner is incarcerated or in the federal district court where Petitioner's custodian is located. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 488-89 (1973). Petitioner is confined in Atwater, California, and his custodian, or the person who has the day-to-day responsibility for his custody, would be the warden at the United States Penitentiary-Atwater. Therefore, this Court finds that jurisdiction of the instant action lies in California, not in Maryland. The Petition shall be dismissed without prejudice. A separate Order follows.

3/2/2015

Date

/s/

William M. Nickerson

Senior United States District Judge