

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROSS MACLIN, #148084,

Petitioner,

v.

CASE NO. 2:20-CV-11530

HON. GEORGE CARAM STEEH

RANDEE REWERTS,
MICHIGAN DEP'T OF CORR.,

Respondents.

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ORDER OF TRANSFER

Ross Maclin (“Petitioner”), a state prisoner currently confined at the Carson City Correctional Facility in Carson City, Michigan, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, along with a request for an emergency injunction and placement in alternative incarceration due to his risk of illness or death due to COVID-19. Petitioner was convicted of first-degree felony murder following a jury trial in the Detroit Recorder’s Court and was sentenced to life imprisonment without the possibility of parole in 1979. He previously filed a habeas petition challenging that conviction pursuant to 28 U.S.C. § 2254, but his petition was dismissed as untimely. See Maclin v. Robinson, No. 2:00-CV-70655

(E.D. Mich. April 24, 2001). Petitioner is not challenging his conviction or sentence in the instant petition, but rather is seeking alternative incarceration or release due to the ongoing pandemic.

A state prisoner in a state that has two or more federal judicial districts may file a habeas petition in the district where the prisoner is in custody or in the district where the prisoner was convicted and sentenced. 28 U.S.C. § 2241(d). The district having custody of the prisoner and the district where the prisoner was convicted and sentenced have concurrent jurisdiction to entertain the application. Id. Moreover, the court in the district where the petition was filed may, in the exercise of its discretion and in furtherance of justice, transfer the application to the other district for a hearing and determination. Id.; see also 28 U.S.C. § 1404(a) ("For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.").

Petitioner was convicted in Wayne County, which lies in the Eastern District of Michigan, but he is not attacking his conviction in this case. Instead, his petition and related requests are solely challenging the conditions of his confinement due to the spread of COVID-19 at his place

of incarceration in Carson City, Montcalm County, Michigan, which lies in the Western District of Michigan. See 28 U.S.C. § 102(b)(1). He also names as respondents the warden at his prison and the Michigan Department of Corrections, both of whom are located in the Western District of Michigan.

Because of the potential inconvenience and expense of moving Petitioner between his facility and this court for any hearings and because the entirety of his petition relates to acts and witnesses within the confines of the Western District of Michigan, the Court finds that the Western District of Michigan is a more convenient and appropriate venue for this action and the interests of justice are served by a transfer of the case to that court. See Starnes v. McGuire, 512 F.2d 918, 931 (D.C. Cir. 1974); see also Barrera v. Decker, No. 20-CV-2755 (VEC), 2020 WL 1686641, *1 (S.D.N.Y. April 7, 2020) (Southern District of New York lacked venue over habeas petitioner's claim that his health condition put him at imminent risk of contracting COVID-19, where the petitioner was incarcerated in New Jersey).

Accordingly, the Court directs the Clerk's Office to **TRANSFER** this case to the United States District Court for the Western District of Michigan.

“Given the significant liberty interests at stake, the time-sensitivity of Petitioner’s claims, and the risks to Petitioner’s health posed by the rapid spread of COVID-19,” the court directs the Clerk’s Office to effectuate the transfer as soon as possible. See Barrera, 2020 WL 1686641, *1.

IT IS SO ORDERED.

s/George Caram Steeh
HON. GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: June 30, 2020

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on June 30, 2020, by electronic and/or ordinary mail and also on Ross Maclin #148084, Carson City Correctional Facility 10274 Boyer Road, Carson City, MI 48811.

s/Karri Sandusky
Deputy Clerk