

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALFRED M. SAARIO,

Petitioner,

v.

Case No. 2:21-CV-12043
Honorable Linda V. Parker

BRYAN MORRISON,

Respondent,

**OPINION AND ORDER TRANSFERRING THE PETITION FOR WRIT OF
HABEAS CORPUS TO THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN**

Alfred M. Saario (“Petitioner”), presently confined at the Lakeland Correctional Facility in Coldwater, Michigan, filed a petition for writ of habeas corpus in this District pursuant to 28 U.S.C. § 2254. In his application, Petitioner challenges his convictions for second-degree murder and intentionally discharging a firearm in a dwelling out of the Circuit Court for Iron County, Michigan. In the interests of justice, the Court concludes that the proper venue for this petition is in the Western District of Michigan and orders that the petition be transferred there.

The applicable venue statute provides:

Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to

entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

28 U.S.C. § 2241(d). A federal district court lacks jurisdiction to hear a state prisoner's habeas petition where the petitioner was not convicted, sentenced, or incarcerated within that district. *See Wadsworth v. Johnson*, 235 F.3d 959, 962-63 (5th Cir. 2000).

Iron County, where Petitioner was convicted, is located in the Western District of Michigan. 28 U.S.C. § 102(b)(1). The Lakeland Correctional Facility, where Petitioner currently is incarcerated, is located in Branch County, which also is in the Western District of Michigan. *Id.* Thus, Petitioner's habeas corpus petition should have been filed in that District and this Court lacks jurisdiction to adjudicate it.

While this Court lacks jurisdiction to adjudicate the petition, it may transfer it to another district "in furtherance of justice." 28 U.S.C. § 2241(d). Accordingly,

IT IS ORDERED that the Clerk of the Court shall transfer the Petition for Writ of Habeas Corpus to the United States District Court for the Western District of Michigan.

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: September 9, 2021

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, September 9, 2021, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan

Case Manager