

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES TRAXLER,

Petitioner,

Civil Case No. 15-10995
Honorable Linda V. Parker

v.

RANDALL HAAS,

Respondent,
_____ /

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER PETITION FOR
WRIT OF HABEAS CORPUS [ECF NO. 6] TO THE WESTERN DISTRICT OF
MICHIGAN**

On March 17, 2015, James Traxler (“Petitioner”) filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenged his conviction out of the Newaygo County Circuit Court for second-degree murder and felony-firearm. When he filed the petition, Petitioner was confined at the Macomb Correctional Facility in New Haven, Michigan. On April 13, 2015, this Court summarily dismissed Petitioner’s habeas application without prejudice on the ground that Petitioner failed to exhaust one of his claims with the state courts. (ECF No. 5.) The Court declined to hold the petition in abeyance while Petitioner exhausted that claim. (*Id.*) Thus, the Court did not retain jurisdiction over this matter.

On January 20, 2017, Petitioner filed a new petition for writ of habeas corpus. Petitioner currently is incarcerated at the Muskegon Correctional Facility in Muskegon County, Michigan.

Muskegon County and Newaygo County (where Petitioner was convicted) are located in the Western District of Michigan. 28 U.S.C. § 102(b)(1).

28 U.S.C. § 2241(d) instructs that a habeas petition submitted by a person in state custody may be filed in the district where the person is in custody or in the district where the person was convicted and sentenced. 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). Thus, Petitioner's recent habeas corpus petition should have been filed in the District Court for the Western District of Michigan and this Court lacks jurisdiction to adjudicate it. Nevertheless, § 2241(d) grants the district court where a petition is filed the discretion, in furtherance of justice, to transfer the petition to another district. 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 filed on January 20, 2017 (ECF No. 6) to the United States District Court for the Western District of Michigan.

Dated: February 6, 2017

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

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, February 6, 2017, by electronic and/or U.S. First Class mail.

s/ Richard Loury
Case Manager