

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ANTONIO NATHANIEL SPEED-BEY,)
)
Petitioner,)
)
v.) No. 4:16-CV-00544-ERW
)
UNITED STATES OF AMERICA,)
)
Respondent.)
)

MEMORANDUM AND ORDER OF TRANSFER

This matter is before the Court on review of petitioner's amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 [Doc. 8]. Petitioner is an inmate at the United States Penitentiary in Leavenworth, Kansas, and he is requesting his immediate release because of "rejection of proper name and status identification." For the following reasons, this action will be transferred to the United States District Court for the District of Kansas.

Discussion

Jurisdiction over a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 lies either in the district of physical confinement or in the district in which a custodian against whom the petition is directed is present. *McCoy v. United States Board of Parole*, 537 F.2d 962, 964 (8th Cir. 1976). "[A] court has jurisdiction whenever it can serve process on the custodian, even when venue considerations indicate that the case should be

transferred elsewhere.'" *Id.* (quoting *McCall v. Swain*, 510 F.2d 167, 176 n. 21 (C.A.D.C. 1975)). Petitioner and his custodian are not physically located in the Eastern District of Missouri, but rather, in the District of Kansas, where USP-Leavenworth is located. As such, this Court lacks jurisdiction over the instant action.

Pursuant to 28 U.S.C. § 1631, a District Court which finds that it lacks jurisdiction to entertain a civil action may, if it is in the interest of justice, transfer such action to any other Court in which such action could have been brought. Upon transfer under § 1631, the action proceeds as if it had been originally filed in the Court to which it is transferred. The Court finds that it would be in the interest of justice to transfer the instant case to the United States District Court for the District of Kansas, as this is the District of petitioner's physical confinement.

Accordingly,

IT IS HEREBY ORDERED that this action shall be **TRANSFERRED** to the United States District Court for the District of Kansas. *See* 28 U.S.C. § 1631.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to be issued upon the said petition, because the petition is to be transferred.

IT IS FURTHER ORDERED that petitioner is **DENIED** a certificate of appealability if he appeals this Order.

Dated this 5th day of July, 2016.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE