

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

LARRY LEE SMITH,

Petitioner,

v.

ANDY ATKINSON,

Respondent.

)
)
)
)
)
)
)
)
)
)

No. 4:17-cv-1425-RLW

MEMORANDUM AND ORDER

This matter is before the Court upon petitioner Larry Lee Smith's motion for leave to proceed *in forma pauperis*. (Docket No. 2). Upon consideration of the financial information provided with the motion, the Court will grant petitioner provisional leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a).

In addition, the Court will transfer this case to the United States District Court for the Western District of Missouri. Petitioner is presently in custody in Fulton State Hospital, located in the Western District of Missouri, and he avers that he is attacking a state court judgment that arose in Jackson County, Missouri, also located within the Western District of Missouri. As such, this Court lacks jurisdiction over the instant petition. *See* 28 U.S.C. § 2241(d) (an action under § 2254 may be filed in either "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.") Under 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 it could have been brought. Upon transfer pursuant to § 1631, the action proceeds as if it had originally filed in the court to which it was transferred.

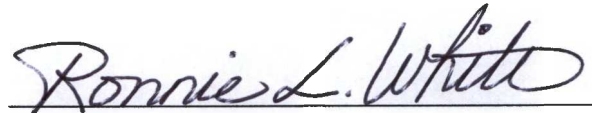
The Court determines that it is in the interest of justice to transfer this case to the United States District Court for the Western District of Missouri pursuant to 28 U.S.C. § 1631.

Accordingly,

IT IS HEREBY ORDERED that petitioner Larry Lee Smith's motion for leave to proceed *in forma pauperis* (Docket No. 2) is **PROVISIONALLY GRANTED**, subject to modification by the United States District Court for the Western District of Missouri.

IT IS FURTHER ORDERED that the Clerk of Court shall **TRANSFER** this case to the United States District Court for the Western District of Missouri.

Dated this 5th day of June, 2017.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE