

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

CLINT PHILLIPS, III)	
)	
Petitioner,)	
)	
v.)	No. 4:24-CV-00194 PLC
)	
DOUG BURRIS, ¹)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon review of the filing by self-represented petitioner Clint Phillips, III titled “Complaint.” [ECF No. 1]. This filing is defective as a petition initiating suit because it was not drafted on a Court form as required by the Local Rules. E.D. Mo. L. R. 2.06(A). In addition, Petitioner has neither paid the filing fee nor filed a motion for leave to proceed in forma pauperis. E.D. Mo. L. R. 2.01(B)(1).

Petitioner is a pretrial detainee at the St. Louis County Justice Center. His filing pertains to his state court matter, *State v. Phillips*, No. 23SL-CR12878 (Circuit Court for St. Louis County), in which he has pending charges for unlawful use of a weapon, assault in the first degree and armed criminal action. Petitioner asks the Court to stop the state’s prosecution of him, alleging misconduct, excessive bail, wrongful incarceration, and violation of his due process rights. [ECF No. 1]

It is not entirely clear under which federal statute Petitioner seeks relief from this Court. However, a state court defendant attempting to litigate the authority of his or her pretrial detention

¹The Court will instruct the Clerk to change the respondent in this action to the Director of the St. Louis County Justice Center, Doug Burris.

may bring a habeas petition pursuant to 28 U.S.C. § 2241. *See Palmer v. Clarke*, 961 F.2d 771, 774 (8th Cir. 1992) (stating that it “is well established that federal district courts can entertain pretrial habeas petitions”); *Walck v. Edmondson*, 472 F.3d 1227, 1235 (10th Cir. 2007) (stating “that a state court defendant attacking his pretrial detention should bring a habeas petition pursuant to the general grant of habeas authority contained within 28 U.S.C. § 2241”); *Dickerson v. State of La.*, 816 F.2d 220, 224 (5th Cir. 1987) (stating that pretrial petitions “are properly brought under 28 U.S.C. § 2241, which applies to persons in custody regardless of whether final judgment has been rendered and regardless of the present status of the case pending against him”).

Here, Petitioner is a pretrial detainee arguing that his detention is unlawful and as such, his filing will be construed as seeking relief under 28 U.S.C. § 2241. The Court will direct the Clerk of Court to send Petitioner a blank “Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241” form. Petitioner has twenty-one (21) days from the date of this Order to file an amended petition on the court form. In that same time period, Petitioner must either file a motion to proceed in forma pauperis or pay the court filing fee.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall change this action to one brought pursuant to 28 U.S.C. § 2241 as Petitioner is litigating his pretrial confinement.

IT IS FURTHER ORDERED that the Clerk shall change the Respondent in this action to Doug Burris, the Director of the St. Louis County Justice Center.

IT IS FURTHER ORDERED that the Clerk shall mail to Petitioner blank copies of the Court’s “Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241” form and “Motion to Proceed in Forma Pauperis and Affidavit in Support – Habeas Cases” form.

IT IS FURTHER ORDERED that, within **twenty-one (21) days** of the date of this Order, Petitioner shall file an amended petition on the Court-provided form.

IT IS FURTHER ORDERED that, within **twenty-one (21) days** of the date of this Order, Petitioner shall either pay the \$5.00 filing fee or submit a motion to proceed in forma pauperis on the Court-provided form.

IT IS FURTHER ORDERED that if Petitioner fails to comply with this Order, the Court will dismiss this action without prejudice.



PATRICIA L. COHEN
UNITED STATES MAGISTRATE JUDGE

Dated this 7th day of February, 2024