

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:06CV48**

**THIS MATTER** is before the Court on the Petitioner's motion  
pursuant to 28 U.S.C. § 2241.

The Petitioner's status as a state or federal prisoner is not clear. Although he is in custody at Rivers Correctional Facility in Winton, North Carolina, a privately run prison with whom the Bureau of Prisons has a contract<sup>1</sup>, he claims that his illegal detention stems from a state court conviction in Washington, D.C.

Moreover, there is no connection with this District. Title 28 U.S.C. § 2241(d) provides in pertinent part:

<sup>1</sup> *Holly v. Scott*, 434 F.3d 287 (4<sup>th</sup> Cir. 2006).

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.

**28 U.S.C. § 2241(d).** “Whenever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement.” ***Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004); accord, *United States v. Little*, 392 F.3d 671, 680 (4<sup>th</sup> Cir. 2004); *United States v. Bailey*, 2006 WL 15011 (4<sup>th</sup> Cir. 2006).**

**IT IS, THEREFORE, ORDERED** that this petition is hereby **DISMISSED** without prejudice to refiling in the District of confinement.

Signed: February 22, 2006



Lacy H. Thornburg  
United States District Judge

