

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DALE ERNEST DENOYER)	
)	
Petitioner,)	
vs.)	NO. CIV-16-0545-HE
)	
U.S. PAROLE COMMISSION, et al.,)	
)	
Respondent.)	

ORDER

Petitioner, a federal inmate appearing *pro se*, filed this case in the U. S. District Court for the District of Columbia, seeking a writ of habeas corpus under 28 U.S.C. § 2241. As petitioner was being held in the Federal Transfer Center in Oklahoma City, Oklahoma (“FTC”) at the time of the filing, the case was transferred to this District. Thereafter, consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Shon T. Erwin, who has issued a Report and Recommendation (the “Report”). The Report indicates that petitioner has since been transferred to the United States Penitentiary, Leavenworth in Leavenworth, Kansas. The Report therefore recommends that this case be transferred to the District of Kansas, where petitioner is presently held.


Petitioner has not filed an objection to the report and recommendation and has therefore waived any right to appellate review of the factual and legal issues addressed in the Report. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see also* 28 U.S.C. § 636(b)(1).

For the reasons stated in the Report, the court concludes this court lacks jurisdiction to grant the relief sought by petitioner. However, the court also concludes that, as this case could not have been filed at its inception in the District of Kansas, the transfer statute does not authorize transfer of the case to the District of Kansas by this court. 28 U.S.C. § 1631 (transfer can be made to another court “in which the action ... could have been brought at the time it was filed”). Therefore, the appropriate action here is to dismiss the case. If plaintiff elects to pursue this further, he should do so by a new filing in the district where he is located, presently the District of Kansas.

Accordingly, the Report and Recommendation [Doc. No. 8] is **ADOPTED** insofar as it determines this court lacks jurisdiction to grant the writ sought by petitioner. This case is **DISMISSED** rather than transferred.

IT IS SO ORDERED.

Dated this 9th day of September, 2016.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE