IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AMIR ABBAS TAMMIMI,

:

Petitioner

CIVIL NO. 3:CV-15-613

V.

:

(Judge Conaboy)

FILED SCRANTON

UNITED STATES OF AMERICA,

Respondent

APR 0 2 2015

MEMORANDUM Background

PER

DEPUTY CLERK

This <u>pro</u> <u>se</u> petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 was filed by Amir Abbas Tammimi, an inmate presently confined at the Moshannon Valley Correctional Institution, Philipsburg, Pennsylvania (Moshannon Valley). The required filing fee has been paid. For the reasons outlined herein, Tammimi's action will be transferred to the United States District Court for the Western District of Pennsylvania.

Named as sole Respondent is the United States of America.¹
Petitioner indicates that he is a non-violent offender presently serving a federal criminal sentence. Tammimi states that he is willing to waive his rights for a deportation hearing prior to the completion of his sentence. <u>See</u> Doc. 1, p. 1.

 $^{^{\}rm 1}$ The only properly named Respondent in a federal habeas corpus action is Petitioner's custodial official, in this case the Moshannon Valley Warden. See 28 U.S.C. § 2242.

Petitioner's pending action does not challenge the legality of his federal criminal conviction or resulting sentence. Rather, Tammimi requests only that he be immediately deported back to his native country without having to complete the remainder of his sentence.²

Discussion

Relief pursuant to § 2241 may only be sought in the district court having jurisdiction over a petitioner's custodian. See

Rumsfeld v. Padilla, 542 U.S.426, 442 (2004) (jurisdiction for habeas corpus petitions challenging present physical confinement lies in only one district; the district of confinement); Braden v.

30th Judicial Circuit Court, 410 U.S. 484, 494-95 (1973).

Although having a mailing address as Phillipsburg,

Pennsylvania, which is located in Centre County and within the

confines of the Middle District of Pennsylvania, Moshannon Valley

Correctional Center is actually located in Decatur Township,

Pennsylvania, on the eastern edge of Clearfield County, which is

within the jurisdiction of the United States District Court for the

Western District of Pennsylvania. See Tsoukalas v. United States,

215 Fed. Appx. 152 (3d Cir. 2007) (jurisdiction over a § 2241

petition filed by Moshannon Valley inmate rests with the Western

² Habeas corpus review under § 2241 "allows a federal prisoner to challenge the 'execution' of his sentence." <u>Woodall v. Federal Bureau of Prisons</u>, 432 F.3d 235, 241 (3d Cir. 2005). Review is available "where the deprivation of rights is such that it necessarily impacts the fact or length of detention." <u>Leamer v. Fauver</u>, 288 F.3d 532, 540 (3d Cir. 2002).

District of Pennsylvania).

As recognized in Tsoukalas, this Court lacks jurisdiction over the Warden of Moshannon Valley. A court may transfer any civil action for the convenience of the parties or witnesses, or in the interest of justice, to any district where the action might have been brought. 28 U.S.C. § 1404(a). Consequently, this matter will be transferred to the United States District Court for the Western District of Pennsylvania pursuant to § 1404(a). An appropriate Order will enter. Hud 1. Ocecetor

United States District Judge