

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

GABRIEL PITTMAN,	:	
	:	
Petitioner	:	
	:	
v.	:	CIVIL NO. 3:CV-17-94
	:	
BARRY SMITH,	:	
	:	(Judge Conaboy)
	:	
Respondent	:	

MEMORANDUM
Background

This pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 was initiated by Gabriel Pittman, an inmate presently confined at the State Correctional Institution, Houtzdale, Pennsylvania (SCI-Houtzdale). Named as Respondent is SCI-Houtzdale Superintendent Barry Smith. Petitioner has also filed an in forma pauperis application.

Petitioner indicates that he is presently serving a sentence which was imposed by the Lehigh County Court of Common Pleas. However, Pittman states that he is not challenging the legality of his state criminal conviction or sentence. See Doc. 1, p. 4. Rather, he claims entitlement to federal habeas corpus relief on the grounds that he is being subjected to unconstitutional conditions of confinements and repeated acts of unwarranted use of excessive force. Pittman is also apparently

contending that the federal government is somehow responsible for his state criminal conviction and the alleged unconstitutional treatment he is receiving in prison.

Discussion

A § 2254 habeas corpus petition may be filed in the district where the applicant is confined or in the district where he was convicted. Fletcher v. Rozum, 2008 WL 2609826 * 2 (E.D. Pa. 2008). 28 U.S.C. § 2241(d) provides:

(d) 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. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

Petitioner is presently confined at SCI-Houtzdale which is located within the confines of the United States District Court for the Western District of Pennsylvania. Pittman's criminal conviction which occurred in the Lehigh County Court of Common Pleas, which is located within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania.

As noted above, under § 2241(d), the district court for the district in which a habeas petition is filed "in the exercise of

its discretion and in furtherance of justice may transfer the application." Moreover, 28 U.S.C. § 1404(a) states, "[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district where it might have been brought." A district court may transfer a habeas petition pursuant to § 1404(a). See In re Nwanze, 242 F.3d 521, 526, n. 2 (3d Cir. 2001) (§ 1404(a) applies to transfers of habeas corpus petitions); Fletcher, 2008 WL 2609826 at * 2.

Since the Plaintiff is asserting claims based upon his place of confinement, SCI-Houtzdale, which is located within the United States District Court for the Western District of Pennsylvania, it would be prudent to transfer this action to the Western District. An appropriate Order will enter.

S/Richard P. Conaboy
RICHARD P. CONABOY
United States District Judge

DATED: APRIL 4 , 2017

