

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FRANCISCO JAVIER RIVERA §
VS. § CIVIL ACTION NO. 1:17-CV-480
DIRECTOR, TDCJ-CID §

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner, Francisco Javier Rivera, an inmate currently confined at the Mark Stiles Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The above-styled action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Title 28 U.S.C. § 2254(a) allows a district court to “entertain an application for writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A state prisoner is required to file his federal petition for writ of habeas corpus in either the district where the prisoner is incarcerated or the district where the prisoner was convicted and sentenced. 28 U.S.C. § 2241(d). Although both district courts have jurisdiction to entertain the application, “[t]he 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.” *Id.*

In the present case, petitioner contests a state court conviction in the 266th District Court in Erath County, Texas which is located in the Northern District of Texas, Fort Worth Division. Although petitioner is incarcerated at the Mark Stiles Unit located within the Eastern District of

Texas, Beaumont Division, this Court has discretion to transfer the application to the Northern District of Texas, Fort Worth Division for hearing and determination.

Conclusion

The Court has considered the circumstances underlying the particular facts of this case and has determined that the interests of justice would be served by transferring this petition to the division where petitioner was convicted. Therefore, the petition should be transferred to the Fort Worth Division of the Northern District of Texas for hearing and determination. An order transferring the case will be entered by the undersigned.

SIGNED this the 5th day of December, 2017.

A handwritten signature in black ink, appearing to read "Keith F. Giblin", written over a horizontal line.

KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE