

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

BEAUMONT DIVISION

BUI PHU XUAN

§

VS.

§

CIVIL ACTION NO. 1:17-CV-488

WARDEN D. STACKS

§

MEMORANDUM OPINION AND ORDER

Petitioner Bui Phu Xuan, a detainee confined in Livingston, Texas, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

Analysis

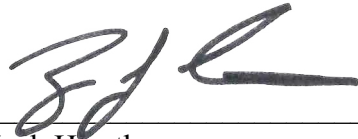
To entertain a habeas petition brought under 28 U.S.C. § 2241, the district court must have jurisdiction over the prisoner. *United States v. Gabor*, 905 F.2d 76, 77-78 (5th Cir. 1990). Accordingly, a prisoner must file a § 2241 petition in the district where he is incarcerated. *Lee v. Wetzel*, 244 F.3d 370, 375 n. 5 (5th Cir. 2001); *Gabor*, 905 F.2d at 78. If the petitioner files in another district, that court lacks jurisdiction over the petition. *United States v. Brown*, 753 F.2d 455 (5th Cir. 1985). If the court in which the petition was filed lacks jurisdiction, 28 U.S.C. § 1631 permits the court to transfer the action, in the interest of justice, to a court where the action could have been brought.

After reviewing the pleadings, the court has concluded that jurisdiction is proper in the Eastern District of Texas because petitioner is confined in Livingston, Texas, which is located in the Lufkin Division of the Eastern District of Texas. However, petitioner filed this petition in the Beaumont Division of the Eastern District of Texas. The court has considered the circumstances and

has determined that the petition for writ of habeas corpus should be transferred to the Lufkin Division, where petitioner is confined. It is accordingly

ORDERED that this petition for writ of habeas corpus is **TRANSFERRED** to the Lufkin Division of the United States District Court for the Eastern District of Texas.

SIGNED this 20th day of November, 2017.

A handwritten signature in black ink, appearing to read 'Zack Hawthorn', written over a horizontal line.

Zack Hawthorn
United States Magistrate Judge