

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

LUFKIN DIVISION

DAVID LYNN MOSS §
VS. § CIVIL ACTION NO. 9:14-CV-65
DIRECTOR, TDCJ-CID §

MEMORANDUM OPINION AND ORDER

Petitioner David Lynn Moss, an inmate confined at the Polunsky Unit of 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 a 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.*

Petitioner filed this petition in the Lufkin Division of the Eastern District of Texas. This court has jurisdiction because petitioner is incarcerated in this district. However, petitioner was convicted and sentenced in Dallas County, which is located in the Northern District of Texas. The court has considered the circumstances and has determined that the interests of justice would be served best by transferring this petition to the district where petitioner was convicted and sentenced. Therefore, the petition should be transferred to the Dallas Division of the Northern District of Texas for hearing and determination. It is accordingly

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

SIGNED this 22nd day of May, 2014.



Zack Hawthorn
United States Magistrate Judge