IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

SUSAN-REBECCA CAMMACK	§	
VS.	§	CIVIL ACTION NO. 9:16-CV-90
KERR COUNTY SHERIFF	§	

MEMORANDUM OPINION AND ORDER DENYING PETITIONER'S APPEAL OF MAGISTRATE JUDGE'S ORDER

Petitioner, Susan-Rebecca Cammack, proceeding *pro se*, filed what appeared to be a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Although not stated explicitly in the petition, it appears petitioner is a pre-trial detainee at the Kerr County Jail based on the address provided.

On June 24, 2016, the Magistrate Judge to whom this case was referred entered an order requiring venue in this case be transferred to the Western District of Texas, San Antonio Division. Petitioner objected to this order arguing venue should remain in the Eastern District of Texas, Lufkin Division, as that is where petitioner filed the suit "in equity."

Analysis

In accordance with 28 U.S.C. § 636(b)(1)(A) and Federal Rule of Civil Procedure 72, a judge of the court may reconsider any pretrial matter referred to a magistrate judge under subparagraph (A) where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law.

Having examined the allegations in petitioner's appeal of the Magistrate Judge's order, this Court finds no support for petitioner's objections. Section 2241 pre-conviction habeas petitions can

be filed only in the federal district where the petitioner is in custody. *Rumsfeld v. Padilla*, 542 U.S. 426, 442-43 (2004). Petitioner appears to be confined as a pre-trial detainee at the Kerr County Jail in Kerr County which is located within the Western District of Texas, San Antonio Division. Venue is, therefore, not proper in the Eastern District of Texas, Lufkin Division. A District Court "may transfer the application for hearing and determination to the district court having jurisdiction to entertain it." 28 U.S.C. § 2241(b).

The Court finds the order of the Magistrate Judge neither clearly erroneous or contrary to law. According, petitioner's appeal of the Magistrate Judge's order should be denied. It is, therefore,

ORDERED that petitioner's objections are **OVERRULED** and petitioner's appeal of the Magistrate Judge's order is **DISMISSED**. Plaintiff's claims are **TRANSFERRED** to the Western District of Texas, San Antonio Division.

SIGNED this 13th day of July, 2016.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE