

D/F

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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VINCENT BEST,

Petitioner,

-against-

DUKE TERRELL, Warden, Metropolitan

Respondent.

\_\_\_\_\_X

ROSS, United States District Judge:

NOT FOR PRINT OR  
ELECTRONIC  
PUBLICATION

**TRANSFER ORDER**

10-CV-738 (ARR)

On January 8, 2009, Vincent Best, filed a *pro se* petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in the United States District Court for the District of South Carolina seeking release from the Federal Correction Institution Willamsburg in Salters, South Carolina. (Dkt. No. 1). By Order dated February 18, 2010, the petition was transferred to this Court because petitioner was transferred to Metropolitan Detention Center (“MDC”) in Brooklyn. (Dkt No. 40).

Petitioner was subsequently transferred from MDC to various facilities, and is currently incarcerated at The Federal Correctional Institution (FCI) in Three Rivers, Texas, which is located in the Southern District of Texas. Thus, there is no longer any connection to this district. Petitioner’s challenge to the Bureau of Prisons’ improper calculation of his sentence in violation of an “oral sentence” of sixty months pronounced at sentencing by Judge Robert Potter of the Western District of North Carolina properly lies in the district of confinement.<sup>1</sup> *Rumsfeld v.*

<sup>1</sup>Petitioner states that he is specifically not challenging the legality of the imposition of the sentence imposed by the United States District Court for the Western District of North Carolina. (Dkt. No. 47.) Such a petition would have to be brought pursuant to 28 U.S.C. §2255, *Roccisano v. Menifee*, 293 F.3d 51, 57 (2d Cir. 2002). Since petitioner has filed two previous §

*Padilla*, 542 U.S. 426, 443 (2004).

Accordingly, the Clerk of this Court shall transfer this case to the United States District Court for the Southern District of Texas. 28 U.S.C. § 1406(a). That provision of Rule 83.1 of the Local Rules for the Eastern District of New York which requires a five-day delay in the transfer of relevant case materials is waived.

SO ORDERED.

/S/

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ALLYNE R. ROSS  
United States District Judge

Dated: Brooklyn, New York  
August 6, 2010

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2255 petitions, if he were raising a claim pursuant to 28 U.S.C. § 2255, he would be required to request permission from the United States Court of Appeals for the Fourth Circuit to file a second or successive habeas petition. 28 U.S.C. § 2244.

**Service List:**

**Petitioner (pro se):**

Vincent Best  
# 10840-058  
FCI Three Rivers  
Federal Correctional Institution  
P.O. Box 4200  
Three Rivers, TX 78071

**Respondent:**

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