

United States District Court
Southern District of Texas

ENTERED

October 16, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DAVID LEE ALLEN,

Petitioner,

VS.

LORIE DAVIS,

Respondent.

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CIVIL ACTION NO. 2:17-CV-310

OPINION AND ORDER OF TRANSFER

This is a habeas action filed by a state prisoner incarcerated at TDCJ-CID’s William P. Clements Unit in Amarillo, Texas (D.E. 1). In 2012, Petitioner was sentenced in the 25th District Court of Gonzales County to life in prison following his conviction for aggravated sexual assault (*Id.*). Petitioner alleges his counsel was ineffective (*Id.*).

A habeas action may be filed either in the district where petitioner is in custody or in the district in which petitioner was convicted. 28 U.S.C. § 2241(d); *Wadsworth v. Johnson*, 235 F.3d 959 (5th Cir. 2000). Petitioner’s place of incarceration is in Potter County in the Northern District of Texas, 28 U.S.C. § 124(a)(5), and he was convicted by a court located in the San Antonio Division of the Western District of Texas. 28 U.S.C. § 124(d)(4). It is not clear why Petitioner filed his petition in the Southern District of Texas.

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought. 28 U.S.C. §§ 1404(a) and 1406(a). A habeas application may be

transferred in furtherance of justice to the district court within which the State court was held which convicted and sentenced the petitioner. 28 U.S.C. § 2241(d). Because petitioner was convicted in Gonzales County, it is more convenient and would further the interests of justice for this action to be handled in the San Antonio Division of the Western District of Texas. The records of his conviction, the prosecutor and defense lawyer, and the witnesses are all located in the San Antonio Division of the Western District of Texas.

Accordingly, it is ordered that the Clerk of the Court TRANSFER this action to the United States District Court for the Western District of Texas, San Antonio Division. All pending motions are denied as moot, subject to re-urging after receipt and docketing by the Clerk of the Western District of Texas.

ORDERED this 16th day of October, 2017.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE