

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

LARRY CLYBURN,

Petitioner,

v.

CIVIL ACTION NO. 5:09-cv-00155

DAVID BERKEBILE,

Respondent.

ORDER

The Court has reviewed Petitioner's *Motion for Clarification or in the Alternative Motion for Declaratory Judgment* (Document 14), wherein Petitioner requests, among other things, that this Court "remand his recharacterized [Section] 2241 [Petition] to the court of jurisdiction over a [Section] 2255 Motion[.]" This motion was filed on September 13, 2011.

However, the docket in this case reveals that on September 7, 2011, the assigned Magistrate Judge, R. Clarke VanDervort, ordered that the instant matter be transferred to the Western District of Virginia. (Document 12). The instant case was closed. On the same date, the District Court in the Western District of Virginia confirmed that the case had been transferred and assigned Petitioner's new civil action as case number 7:11-cv-00426. (Document 13).

Therefore, the Court finds that the instant motion should have been filed in Petitioner's newly filed case in the Western District of Virginia. The Court **ORDERS** the Clerk of Court to **STRIKE** the instant filing from the record of this Court.

The Court **DIRECTS** the Clerk to send a copy of this Order and Petitioner's *Motion for Clarification or in the Alternative Motion for Declaratory Judgment* (Document 14) to the Petitioner. The Court further **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: September 27, 2011

A handwritten signature in blue ink, reading "Irene C. Berger". The signature is written in a cursive style with a large, looping initial "I".

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA