

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TRACI GRAY,

Petitioner,

v.

WARDEN NICOLE ENGLISH,

Respondent.

ORDER

11-cv-696-bbc

Petitioner Traci Gray is confined in the Federal Correctional Institution in Wauseca, Minnesota. She has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 in which she contends that she is being housed in conditions that violate her right under the Eighth Amendment to be free from cruel and unusual punishment.

Unfortunately, I cannot grant petitioner relief in this case for two reasons. First, claims under § 2241 are limited to challenges to a prisoner's "custody." Pischke v. Litscher, 178 F.3d 497, 500 (7th Cir. 1999) (habeas is proper vehicle for presenting claim "if but only if the prisoner is seeking to 'get out' of custody in a meaningful sense."). Because petitioner is challenging her conditions of confinement rather than her custody, she must bring a civil action rather than a petition under § 2241. Moran v. Sondalle, 218 F.3d 647, 650-51 (7th

Cir. 2000) (habeas petition improper vehicle for challenging constitutionality of "transfer to a new prison, administrative segregation, exclusion from prison programs, or suspension of privileges").

Second, even if petitioner's claim were proper under § 2241, it should not have been filed in this district. Although motions filed under 28 U.S.C. § 2255 are filed in the district in which the prisoner was sentenced, petitions under § 2241 must be brought in the state in which the custodian may be found. 28 U.S.C. § 2241(a); Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 494-96, (1973); Hanahan v. Luther, 760 F.2d 148, 151 (7th Cir. 1985). In this case, that state is Minnesota, not Wisconsin.

ORDER

IT IS ORDERED that petitioner Traci Gray's petition for a writ of habeas corpus is DENIED for her failure to show that she is in custody in violation of federal law.

Entered this 12th day of October, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge