

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

JERRY CHARLES,

Petitioner,

ORDER

v.

04-C-0080-C

JUDY SMITH, Warden, Oshkosh
Correctional Institution,

Respondent.

Jerry Charles, an inmate at the Oshkosh Correctional Institution, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner challenges his March 9, 1995, judgment of conviction in the Circuit Court for Outagamie County for forgery, as a habitual offender. Petitioner has paid the five dollar filing fee.

Petitioner has filed his petition in the wrong court. Pursuant to 28 U.S.C. § 2241(d), a petitioner may file his petition either in the federal district court for the district where he is in custody or in the federal district court for the district within which the state court was held that convicted and sentenced him. Both the Oshkosh Correctional Institution and the Circuit Court for Outagamie County are located in the Eastern District of Wisconsin. Therefore, under § 2241(d), this court lacks jurisdiction over his petition. In fact, it appears that petitioner is aware that his application belongs in the eastern district, insofar as he typed "Eastern District" on his habeas application.

Because petitioner has paid the filing fee and because it appears that he filed his application inadvertently in this district, I will transfer the application to the United States District Court for the Eastern District of Wisconsin. See § 2241(d) (court may transfer application to proper district in furtherance of justice).

ORDER

IT IS ORDERED that the petition of Jerry Charles for a writ of habeas corpus is TRANSFERRED to the United States District Court for the Eastern District of Wisconsin pursuant to 28 U.S.C. § 2241(d).

Dated this 25th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge