

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

NEAL KENNETH ALLEN,

Defendant.

ORDER

04-CR-0023-C-01

Defendant Neal Kenneth Allen has filed a “Motion to Appear to Modify District of Supervision,” arguing he has a right to be released from custody to the District of Massachusetts, because that is the location in which he believes he would have the greatest likelihood of a successful community adjustment. Apparently, that district has refused to accept him for supervision notwithstanding the many arguments he can muster in support of its doing so. Defendant contends that, in denying his request, both the Bureau of Prisons and the United States Probation Office in the District of Massachusetts are ignoring Attachment B to Policy Statement 5321.07.

It is true that Policy Statement 5321.07 states that “Offenders should be released to locations where they have the greatest likelihood of a successful community adjustment.”

Id. at 3. It does not follow, however, that an offender can be released to any district he chooses or that he believes offers him the best chance of successful adjustment. First, the Bureau of Prisons must agree with the offender that his choice is a wise one. Second, the district must be either the district in which he was sentenced or one that agrees to accept supervision of him. Each United States Probation Office retains the discretion to refuse supervision of any offender not sentenced in the district. If it rejects a placement, neither the sentencing court nor the Bureau of Prisons can force it to change its position.

ORDER

IT IS ORDERED that defendant Neal Kenneth Allen's motion to appear before the court to modify the district of his supervision is DENIED because this court does not have the authority to grant defendant the relief he is requesting.

Entered this 1st day of October, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge