

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

DAVID D. BROWN,

Petitioner,

ORDER

v.

05-C-681-C

WILLIAM POLLARD, Warden,
Green Bay Correctional Institution,

Respondent.

David D. Brown, an inmate at the Green Bay Correctional Institution, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Brown attacks his March 23, 2001 conviction in the Circuit Court for Outagamie County for burglary, false imprisonment and sexual assault.

Under § 2241(d), a prisoner of a state containing two or more federal judicial districts must file his federal habeas application in either the federal district court sitting in the district in which he is in custody or the federal court sitting in the district in which he was convicted and sentenced. In petitioner's case, the institution in which he is confined and the court in which he was convicted are both located in the Eastern District of Wisconsin. Accordingly, the petition is not properly filed in this court. That is true even though this court dismissed without prejudice a previous petition filed by petitioner attacking the same Outagamie County conviction. Brown v. Benik, 04-C-0041-C. At that time, this court was

a proper venue for the petition because petitioner was confined at the Stanley Correctional Institution, which is located in this district. In dismissing the petition, this court terminated its review of the petition and closed the case. The instant petition is thus a new petition that must satisfy the venue provision of § 2241(d).

Because of the one-year limitations period imposed by 28 U.S.C. § 2244, I find that it is in the interest of justice to transfer this case to the United States District Court for the Eastern District of Wisconsin pursuant to the last sentence of § 2241(d).

ORDER

The clerk of court is directed to transfer this case to the United States District Court for the Eastern District of Wisconsin pursuant to the last sentence of § 2241(d).

Entered this 23rd day of November, 2005.

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