

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

DELINDA VIANNE ROGERS,	:	
Petitioner,	:	
	:	PRISONER
v.	:	Case No. 3:04CV619 (CFD)
	:	
KUMA J. DEBOO,	:	
Respondent.	:	

RULING ON PETITION FOR WRIT OF HABEAS CORPUS

The petitioner, DeLinda ViAnne Rogers (“Rogers”), is currently confined at the Federal Correctional Institution in Danbury, Connecticut. She brings this action for a writ of habeas corpus, pursuant to 28 U.S.C. § 2241. The court concludes that it lacks jurisdiction under section 2241 to entertain Rogers’ claims.

Procedural Background

Rogers was convicted in 1990 in the United States District Court for the Western District of Missouri, Southern Division for an unspecified drug offense under Title 21 of the United States Code. She was sentenced to a term of imprisonment of 248 months. In approximately March 1996, the Court of Appeals for the Eighth Circuit granted her motion to vacate a portion of her sentence and reduced Rogers’ sentence by sixty months.

By petition dated March 25, 2004, and certified as mailed on March 29, 2004, Rogers commenced this action pursuant to 28 U.S.C. § 2241. She challenges her conviction on several grounds relating to the jurisdiction of the court in which she was convicted. Rogers claims that she was convicted in a court of admiralty and that she was convicted for violating a civil, not a criminal, statute.

Discussion

As an initial matter, the court must determine whether it has jurisdiction to entertain Rogers' claim in a petition filed pursuant to 28 U.S.C. § 2241. For the reasons that follow, the court concludes that it does not have jurisdiction.

Since the enactment of the Judiciary Act of 1789, the federal court in the district in which a prisoner is incarcerated has been authorized to issue a writ of habeas corpus if the prisoner was in custody under the authority of the United States. See Triestman v. United States, 124 F.3d 361, 373 (2d Cir. 1997). Today, this authority is codified at 28 U.S.C. § 2241(c)(3). In 1948, however, Congress enacted 28 U.S.C. § 2255. This statute “channels collateral attacks by federal prisoners to the sentencing court (rather than to the court in the district of confinement) so that they can be addressed more efficiently.” Id.

Currently, “[a] motion pursuant to [section] 2241 generally challenges the *execution* of a federal prisoner’s sentence, including such matters as the administration of parole, computation of a prisoner’s sentence by prison officials, prison disciplinary actions, prison transfers, type of detention and prison conditions.” Jiminian v. Nash, 245 F.3d 144, 146 (2d Cir. 2001) (citing Chambers v. United States, 106 F.3d 472, 474-75 (2d Cir. 1997) (describing situations where a federal prisoner would properly file a section 2241 petition)). A section 2255 motion, on the other hand, is considered “the proper vehicle for a federal prisoner’s challenge to [the imposition of] his conviction and sentence.” Id. at 146-47. Thus, as a general rule, federal prisoners challenging the imposition of their sentences must do so by a motion filed pursuant to section 2255 rather than a petition filed pursuant to section

2241. See Triestman, 124 F.3d at 373.

In her section 2241 petition, Rogers challenges her conviction, claims properly raised in a section 2255 motion, and, hence, with the sentencing court in Missouri. Section 2255 contains a “savings clause” which “permits the filing of a [section] 2241 petition when [section] 2255 provides *an inadequate or ineffective remedy* to test the legality of a federal prisoner’s detention.” Jiminian, 245 F.3d at 147 (emphasis added); see also, e.g., Tucker v. Nash, No. 00-CV- 6570(FB), 2001 WL 761198, at *1 (E.D.N.Y. June 29, 2001) (referring this section as the “‘savings clause’ of § 2255”).

Rogers does not argue that section 2255 is inadequate and ineffective and does not indicate that she has attempted to file a successive section 2255 petition in the sentencing court. The court concludes that the exception does not apply in this case because section 2255 relief still is available to Rogers. Thus, the District of Connecticut lacks jurisdiction to entertain her section 2241 petition.

The Second Circuit has held that, where a petitioner already has filed a section 2255 motion, the district court may construe a petition filed pursuant to section 2241 as a second section 2255 motion and transfer the motion to the Court of Appeals to enable that court to determine whether certification to file a second petition should be granted. See Jiminian, 245 F.3d at 148-49. Rogers was convicted in the United States District Court for the Western District of Missouri, Southern Division. Thus, transferring this case to the Second Circuit would serve no purpose. In the interests of justice, the case is hereby transferred to the United States District Court for the Western District of Missouri, Southern Division, for whatever action that court deems appropriate. See 28 U.S.C. § 1406(a) (permitting a district court, in the interest of justice, to transfer a case to a district in which it could have been brought); White v. Wiley, No. 9:99-CV-1147 DNH GLS, 2001 WL 1860962, at *3 (Feb. 15,

2001) (“Where habeas claims are raised in the wrong judicial district, a court may dismiss or transfer such claims” pursuant to 28 U.S.C. § 1406(a)) (unpublished decision).

Conclusion

Based on the foregoing, the court concludes that it lacks jurisdiction to entertain Rogers’ petition pursuant to section 2241. The petition is hereby transferred to the United States District Court for the Western District of Missouri, Southern Division, in Springfield, Missouri.

SO ORDERED this 24th day of June 2004, at Hartford, Connecticut.

/s/ CFD
Christopher F. Droney
United States District Judge