

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

JULEEN BROWN,	:	
Petitioner,	:	
	:	
v.	:	PRISONER
	:	Case No. 3:04CV679 (CFD)
	:	
KUMA J. DEBOO,	:	
Respondent.	:	

RULING ON PETITION FOR WRIT OF HABEAS CORPUS

The petitioner, Juleen Brown (“Brown”), 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 Brown’s claims.

Procedural Background

Brown was convicted in the United States District Court for the Eastern District of Virginia, and sentenced to a term of imprisonment of 292 months. Her conviction was affirmed by the United States Court of Appeals for the Fourth Circuit in February 1997. A motion filed pursuant to 28 U.S.C. § 2255 was denied by the district court in May 1998. The denial was affirmed by the Fourth Circuit in 1999.

By petition dated April 1, 2004, Brown 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. Brown 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 Brown's 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 to entertain her claim.

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, Brown challenges her conviction, claims properly raised in a

section 2255 motion, and, hence, with the sentencing court in Virginia. 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”).

Brown 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 Brown. 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. Brown was convicted in the United States District Court for the Eastern District of Virginia. 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 Eastern District of Virginia, 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).

Conclusion

Based on the foregoing, the court concludes that it lack jurisdiction to entertain Brown's petition pursuant to section 2241. The petition is hereby transferred to the United States District Court for the Eastern District of Virginia, in Richmond, Virginia.

SO ORDERED this 11th day of August, 2004, at Hartford, Connecticut.

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