

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DANELLE D. ZOLLAR,

Petitioner,

v.

CASE NO. 06-3194-RDR

DUKE TERRELL,

Respondent.

O R D E R

This matter is before the court on a petition for habeas corpus filed pursuant to 28 U.S.C. § 2241 by a prisoner incarcerated at the United States Penitentiary, Leavenworth, Kansas.

Petitioner was convicted in the United States District Court for the Western District of Missouri. In this action, he asserts his sentence is void as a matter of law.

A petition under § 2241 `` attacks the execution of a sentence rather than its validity and must be filed in the district where the prisoner is confined. A 28 U.S.C. § 2255 petition attacks the legality of detention, and must be filed in the district that imposed the sentence.' " Haugh v. Booker, 210 F.3d 1147, 1149 (10th Cir. 2000)(quoting Bradshaw v. Story, 86 F.3d 164, 166 (10th Cir. 1996)).

A federal prisoner may not pursue relief under § 2241 an "an additional, alternative, or supplemental remedy to 28 U.S.C. §2255."

Bradshaw, 86 F.3d at 166. A prisoner may pursue relief from a conviction or sentence under § 2241 only by showing that the remedy under § 2255 is "inadequate or ineffective". Id.

Having examined the present petition, the court concludes this matter must be dismissed for lack of jurisdiction. The petitioner's claims attack the legality of his sentence, and the proper remedy for such claims is a motion filed pursuant to § 2255 in the district of his conviction.

IT IS THEREFORE ORDERED the petition for habeas corpus is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED petitioner's motion for leave to proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED petitioner's motions for the issuance of a subpoena (Doc. 5) and for an emergency hearing (Doc. 6) are denied as moot.

A copy of this order shall be transmitted to the petitioner.

IT IS SO ORDERED.

DATED: This 24th day of July, 2006, at Topeka, Kansas.

S/ Richard D. Rogers
RICHARD D. ROGERS
United States District Judge