

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

LESTER JOHN RUSTON,

Petitioner,

v.

CASE NO. 11-3065-RDR

MICHAEL NALLEY, Regional Director,
Federal Bureau of Prisons,

Respondents.

MEMORANDUM AND ORDER

This matter comes before the court on a petition for habeas corpus filed pursuant to 28 U.S.C. § 2241. The petitioner is an insanity acquittee¹ housed in the Federal Medical Center in Springfield, Missouri.

Having considered the petition, the court concludes this matter must be dismissed. Because petitioner is not confined in the District of Kansas, this matter is not properly before this court. See *Montez v. Mc Kinna*, 208 F.3d 862, 865 (10th Cir. 2000)(petition filed under § 2241 is properly filed in the district where the petitioner is confined); *Haugh v. Booker*, 210 F.3d 1147, 1149 (10th Cir. 2000)(same). Rather, petitioner must present his claims in the

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The court takes note that petitioner is an insanity acquittee from the decisions in *United States v. Ruston*, 565 F.3d 892 (5th Cir. 2009) and *Ruston v. Church of Jesus Christ of Latter-Day Saints*, 304 Fed. Appx. 666, 2008 WL 5272810 (10th Cir. 2008).

United States District Court for the Western District of Missouri so long as he is detained in that district.

Accordingly, the court will dismiss this matter without prejudice.

IT IS, THEREFORE, BY THE COURT ORDERED the petition for habeas corpus is dismissed without prejudice.

IT IS FURTHER ORDERED petitioner's emergency motion to expedite the petition (Doc. 3) is denied as moot.

A copy of this Memorandum and Order shall be transmitted to the petitioner.

IT IS SO ORDERED.

DATED: This 13th day of April, 2011, at Topeka, Kansas.

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