

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FEB 19 1999

PATRICK FISHER
Clerk

MATTHEW SKAMFER,

Petitioner - Appellant,

v.

RICK HUDSON; JAMES DOYLE,

Defendant - Appellee.

No. 98-6386
(D. Ct. No. CV-98-1021-T)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **TACHA, McKAY, and MURPHY**, Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This appeal is from an order of the district court denying Mr. Skamfer's petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254.

Petitioner argues on appeal that the district court erred in transferring the petition

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

from the United States District Court for the Western District of Oklahoma to the United States District Court for the Western District of Wisconsin. The district court further denied a certificate of appealability to this court and petitioner's motion to proceed in forma pauperis on appeal. Appellant also seeks release on bail pending appeal. We deny the certificate of appealability, deny in forma pauperis status, and deny the motion for release on bail pending appeal.

Petitioner is currently incarcerated at the Norfolk Correctional Facility, a private prison in Sayre, Oklahoma. All of his habeas corpus claims relate to convictions imposed in 1997 by a state court in Dane County, Wisconsin. Taking into account the factors governing venue in federal courts, as set forth in 28 U.S.C. § 1404(a), the district court transferred petitioner's case to the Western District of Wisconsin because petitioner bases his claims on conduct and procedures in the state in which his criminal conviction was imposed, not the state in which he was incarcerated. We agree that this transfer of venue is proper. We therefore find that petitioner has failed to make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Fed. R. App. P. Rule 22. Thus, we deny the certificate of appealability to appeal the denial of the 28 U.S.C. § 2254 petition for a writ of habeas corpus. We further deny the motion to proceed in forma pauperis on appeal and the motion for release pending appeal. All pending motions are denied. The appeal is dismissed.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Circuit Judge