

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS**

Fort Worth Division  
501 W. 10<sup>th</sup> Street Room 310  
Fort Worth Texas 76102

March 3, 2008

**NOTICE OF CASE TRANSFERRED TO  
FORT WORTH DIVISION**

Your case number 3:08-cv-371-K which was filed in the Dallas division was transferred to the Fort Worth division on 3/4/08 and has been assigned civil case number 4:08-cv-147-Y

Please refer to case number 4:08-cv-147-Y in all future communications.

The policy of the clerk's office regarding the return of file-stamped pleadings is as follows:

A copy of the requested pleading will be returned **if** an additional copy is provided **and**  
A self-addressed stamped envelope with sufficient postage is provided.

Please submit an original and two copies of a document to be filed:

1-original file  
1-court's copy file.  
1-copy to be returned to you in the self addressed stamped envelope you provide

Sincerely,  
Clerk, U.S. District Court

By: Delores Duron, Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BARTON RAY GAINES,	)	
Petitioner,	)	
vs.	)	No. 3:08-CV-0371-K (BH)
	)	ECF
NATHANIEL QUARTERMAN, Director,	)	Referred to U.S. Magistrate Judge
Texas Department of Criminal	)	
Justice, Correctional Institutions Division,	)	
Respondent.	)	

**ORDER OF TRANSFER**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an Order of the Court in implementation thereof, subject cause has previously been referred to the United States Magistrate Judge. Further, by virtue of Amended Miscellaneous Order No. 6 entered by the judges of this Court on May 5, 2005, the undersigned is authorized to transfer actions brought by prisoners to the proper or more appropriate district or division.

**I. BACKGROUND**

Petitioner, a state prisoner currently incarcerated in the Allred Unit of the Texas Department of Criminal Justice - Correctional Institutions Division (TDCJ-CID), filed this action pursuant to 28 U.S.C. § 2254 to challenge his 2002 convictions for aggravated robbery (Nos. 0836979A and 0836985A) in Tarrant County, Texas. Respondent is Nathaniel Quarterman, Director of TDCJ-CID.

**II. JURISDICTION**

A petitioner may only file an action under 28 U.S.C. § 2254 in the district in which he is incarcerated or in which his conviction occurred. See 28 U.S.C. § 2241(d). In this instance, petitioner was convicted within the territorial confines of the Fort Worth Division of the

Northern District of Texas. *See* 28 U.S.C. § 124(c)(1) (showing that the Fort Worth Division encompasses Tarrant County). He is currently incarcerated in the Wichita Falls Division of the Northern District of Texas. *See id.* § 124(a)(5) (showing Wichita County to be within the Wichita Falls Division). In view of his incarceration in this district, it is clear that this Court has jurisdiction to entertain the petition. *See id.* § 2241(d); *In re Green*, 39 F.3d 582, 583-84 (5th Cir. 1994).

### III. PROPRIETY OF TRANSFER

While this Court has jurisdiction over the instant action, it may also, “in the exercise of its discretion and furtherance of justice . . . transfer the application to the other district court for hearing and determination.” 28 U.S.C. § 2241(d). In addition, it has discretion to transfer any civil action to a more convenient forum where it could have been originally filed. *See id.* § 1404(a).

In this case, petitioner could have filed the instant action in the Fort Worth Division or the Wichita Falls Division of the Northern District of Texas. Because petitioner challenges his Tarrant County convictions, the more convenient forum between the two courts is the Fort Worth Division, where petitioner was convicted and sentenced. *See Mitchell v. Henderson*, 432 F.2d 435, 436 (5th Cir. 1970) (holding that the location of the witnesses makes a more appropriate forum than place of confinement); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968) (holding that when challenging conviction or sentence, venue is best in the district in which convicted).

#### IV. CONCLUSION

For the foregoing reasons, the Court hereby **ORDERS** that petitioner's original petition filed pursuant to 28 U.S.C. § 2254 is **TRANSFERRED** to the Fort Worth Division of the United States District Court for the Northern District of Texas.

**SIGNED** this 4th day of March, 2008.

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE