

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SANTRA LAVONNE RUCKER

V.

WILLIAM WILLINGHAM

PRISONER

Case No. 3:06CV657 (WWE)

MEMORANDUM OF DECISION

On May 31, 2006, the court informed petitioner that this petition should have been filed in the sentencing court as a motion pursuant to 28 U.S.C. § 2255 and afforded her until June 15, 2006 to withdraw her petition or agree to have the petition recharacterized and transferred to the Eastern District of Virginia. Petitioner was informed that if she failed to respond to the order, the court would recharacterize and transfer the petition. On August 8, 2006, the court noted that petitioner had not responded to the order and transferred the case to the Eastern District of Virginia.

Petitioner has filed a document entitled "Motion to Show Cause and Good Cause with Notice of Appeal in Regard to 'Order of Transfer.'" In the motion, petitioner states that she did respond to the court's order and attaches a copy of her response and the mail receipt. The court considers this motion to be a request for reconsideration of the order of transfer.

The standard for granting a motion for reconsideration is strict. Reconsideration "will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked - matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." See Schrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995).

A review of the receipt shows that petitioner sent her response to the chambers of the magistrate judge. She did not file it with the Clerk's Office. This delayed docketing of the response. In addition, she did not consent to have her petition recharacterized as a motion filed pursuant to 28 U.S.C. § 2255 and transferred to the sentencing court, nor did she withdraw the petition. Instead, she improperly included the magistrate judge as a respondent and attempted to debate the propriety of the order.

For example, petitioner challenges the authority of the Magistrate Judge to issue the order based on restrictions on the authority of magistrate judges in *criminal* cases. This argument is irrelevant because a petition for writ of habeas corpus is a *civil* matter. Thus, even if the court had reviewed the response before issuing the order of transfer, the result would be the same. Petitioner's motion should be denied.

In addition, petitioner has filed a document entitled "Notice of Appeal and Entry of Writ of Error Coram Nobis."

Because petitioner already has filed three notices of appeal of the order of transfer [docs. ##8, 10, 11], the court considered this motion as a motion for writ of error coram nobis.

Petitioner's motion should be denied for several reasons. In the motion, she states that she is addressing this motion to the appeals court of the district court and included the address of the New Haven seat of court. There is no such court. The United States District Court for the District of Connecticut sits in three cities, Hartford, New Haven and Bridgeport. No seat of court is superior to any other. If petitioner intends to address her motion to an appellate court, she should send it to the United States Court of Appeals for the Second Circuit in New York City.

Further, "[a] writ of error coram nobis is essentially a remedy of last resort for petitioners who are no longer in custody pursuant to a criminal conviction." United States v. Mandanici, 205 F.3d 519, 524 (2d Cir. 2000) (internal citations and quotation marks omitted). As petitioner is in federal custody, issuance of a writ of error coram nobis is not warranted. Accordingly, her motion for writ of error coram nobis should also be denied.

In conclusion, petitioner's motion for reconsideration of the order of transfer [**doc. #7**] and motion for writ of error coram nobis [**doc. #12**] are **DENIED**.

Dated this 26th day of September, 2006 at Bridgeport, Connecticut.

/s/
Warren W. Eginton
Senior United States District Judge