

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-634

In Re: MILTON J. TAYLOR,

Petitioner.

On Petition for Writ of Mandamus. (CA-98-946-AM)

No. 98-7424

MILTON J. TAYLOR,

Plaintiff - Appellant,

versus

KATHLEEN HAWKS; PAUL L. FRIEDMAN, Judge; JANET
RENO,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Leonie M. Brinkema, District
Judge. (CA-98-946-AM)

Submitted: February 23, 1999

Decided: March 12, 1999

Before ERVIN, WILLIAMS, and KING, Circuit Judges.

No. 98-634 petition denied and No. 98-7424 affirmed by unpublished per curiam opinion.

Milton J. Taylor, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Milton Taylor, a federal prisoner incarcerated in Virginia, seeks to challenge the district court's order transferring an action to the United States District Court for the District of Columbia. To that end, he has filed both an appeal of the transfer order (No. 98-7424), and a mandamus petition seeking an order returning the action to the Eastern District of Virginia (No. 98-634). We grant leave to proceed in forma pauperis in both actions.

Taylor challenged his sentence and sought release; accordingly, the district court did not err in construing his complaint as a motion for relief under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). Because the only court with jurisdiction to consider Taylor's § 2255 motion is the United States District Court for the District of Columbia, the district court properly transferred the case. See 28 U.S.C. § 1631 (1994); Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 497 (1973); see generally Gower v. Lehman, 799 F.2d 925, 927-28 (4th Cir. 1986) (finding that transfer order entered pursuant to § 1631 based on lack of jurisdiction is reviewable on appeal). Accordingly, we affirm the transfer order in No. 98-7424, and we deny Taylor's motion to expedite as moot.

In his mandamus petition, Taylor seeks an order transferring the case back to the Eastern District of Virginia. Because we have concluded that the transfer order was not improper, we deny the petition in No. 98-634. See In re Beard, 811 F.2d 818, 826 (4th Cir.

1987) (mandamus relief may only be granted when the petitioner has a clear right to the relief sought).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

No. 98-634 - PETITION DENIED

No. 98-7424 - AFFIRMED