

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF IOWA
 CEDAR RAPIDS DIVISION

GLENN L. MCGHEE,

Petitioner,

vs.

STATE OF IOWA¹,

Respondent.

No. 15 cv 131 EJM

ORDER

Before the court is initial review of Petitioner's supplemented habeas corpus petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the last supplement of which was filed August 12, 2016. Transferred to U.S. District Court for the Southern District of Iowa.

Petitioner was convicted of multiple felonies, including three counts of homicide, in Des Moines and Scott Counties, and is now incarcerated in the Iowa State Penitentiary. See State v. McGhee, 220 N.W.2d 908 (Iowa 1974); McGhee v. State, 859 N.W.2d 672 (Iowa Ct. App. 2014); McGhee v. State, Case No. PCLA004517 (Des Moines Cnty. Dist. Ct. 201_); State v. McGhee, Case No. FECR016012 (Scott Cnty. Dist. Ct. 2015); McGhee v. State, Case No. PCCE127045 (Scott Cnty. Dist. Ct. 2015);

¹ The petitioner brings this action against the State of Iowa, but the proper respondent in a federal habeas corpus action is "the person having custody of the person detained." 28 U.S.C. § 2243; see also 28 U.S.C. § 2242 (stating application shall allege the name of the person who has custody over him); Braden v. 30th Judicial Circuit Ct. of Ky., 410 U.S. 484, 494-95 (1973) ("The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody."). Thus, the petitioner improperly named the State of Iowa as the respondent.

State v. McGhee, Case No. FECR006493 (Des Moines Cnty. Dist. Ct. 2013); McGhee v. State, Case No. PCLA002126 (Des Moines Cnty. Dist. Ct. 2013).² The court has jurisdiction pursuant to 28 USC §1331 and 2241.

This case shall be transferred to the U.S. District Court for the Southern District of Iowa, where the convictions occurred. 28 U.S.C. §2241(d.)

It is therefore

ORDERED

Transferred to the U.S. District Court for the Southern District of Iowa.

August 16, 2016



Edward J. McManus, Judge
UNITED STATES DISTRICT COURT

² Iowa state court criminal and civil records may be accessed online at: http://www.iowacourts.gov/For_the_Public/Court_Services/Docket_Records_Search/index.asp. See Stutzka v. McCarville, 420 F.3d 757, 760 n.2 (8th Cir. 2005) (addressing court's ability to take judicial notice of public records).