

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

AUG 23 1991

ROBERT L. HOECKER
Clerk

HAYWOOD WILLIAMS, Rev.,
Petitioner-Appellant,

v.

ROBERT L. MATTHEWS; JOE
VANKEMPEN, Director, Correc-
tional Programs Division,
Bureau of Prisons,

No. 91-3159
(D.C. No. 88-CV-3122)
(D. Kansas)

ORDER AND JUDGMENT*

Before LOGAN, MOORE, and BALDOCK, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

This is an appeal by a federal prisoner from the denial of a writ of habeas corpus. Petitioner claims he should have been released from the Federal Penitentiary at Leavenworth because of

*This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

his improper classification and because he was being denied proper medical treatment. According to papers filed in this court, petitioner is no longer confined at Leavenworth but has been transferred to F.C.I., Memphis, Tennessee.¹

The petitioner's transfer has mooted the habeas issues of this case. Fletcher v. Warden, 641 F.2d 850 (10th Cir.), cert. denied, 453 U.S. 912 (1981). Petitioner sought only the remedy of release; therefore, his removal from the institution and the conditions of confinement of which he complains leave us without a justiciable controversy. Id. Without such a controversy, we are without jurisdiction. Id.

Even if the transfer had not occurred, we are satisfied the district court ruled correctly on the merits of this case. Although petitioner complains his institutional classification was without benefit of what petitioner asserts are due process requirements, the assignment of prisoners is not subject to due process standards. Meachum v. Fano, 427 U.S. 215, 224 (1976). Moreover, prison officials retain broad discretion over the assignment of inmates. Hewitt v. Helms, 459 U.S. 460, 467 (1983). While petitioner asserted he was deprived of proper medical attention, that claim was based specifically upon his contention that the Leavenworth facility cannot provide for his medical needs. His relocation obviates consideration of the merits of that claim, but the district court determined medical records submitted by both parties showed "no indication of present serious

¹Nothing in the record indicates the confinement conditions which prompted the petition in this case exist in the institution to which Mr. Williams has been transferred.

medical needs that were not adequately addressed during petitioner's incarceration at Leavenworth." That finding is clearly supported by the documents in the record.

APPEAL DISMISSED.

Entered for the Court

**John P. Moore
Circuit Judge**