

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**GARY DEWAYNE LEWIS,**

**Petitioner,**

**v.**

**UNITED STATES ATTORNEY  
GENERAL,**

**Respondent.**

**Civil Action 08-0198 (HHK)**

**MEMORANDUM OPINION**

Petitioner filed this action for *habeas corpus* relief on February 4, 2008, while confined at the Federal Correctional Institution in Beaumont, Texas. The Court promptly issued an order directing a response from the respondent but none was ever filed, and petitioner did not seek enforcement of the order. According to the Bureau of Prisons' inmate locator, petitioner is currently confined at the Allenwood Federal Correctional Complex in White Deer, Pennsylvania. Since there has been no activity in this case for more than two years, it is presumed that petitioner has abandoned the case.

In any event, the proper respondent in *habeas corpus* cases is the petitioner's warden or immediate custodian. *Rumsfeld v. Padilla*, 124 S.Ct. 2711 (2004); *Blair-Bey v. Quick*, 151 F.3d 1036, 1039 (D.C. Cir. 1998) (citing *Chatman-Bey v. Thornburgh*, 864 F.2d 804, 810 (D.C. Cir. 1988)). "[A] district court may not entertain a habeas petition involving present physical custody unless the respondent custodian is within its territorial jurisdiction." *Stokes v.*

*U.S. Parole Commission*, 374 F.3d 1235, 1239 (D.C. Cir. 2004). Because petitioner's custodian is not in the District of Columbia, this Court lacks jurisdiction to entertain his petition. His recourse lies, if at all, in the United States District Court for the Middle District of Pennsylvania. Therefore, this action will be dismissed without prejudice. A separate Order accompanies this Memorandum Opinion.

\_\_\_\_s/\_\_\_\_  
Henry H. Kennedy, Jr.  
United States District Judge

Date: November 22, 2010