

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

LEONARD PELTIER, *et al.*,

Plaintiffs,

v.

**UNITED STATES PAROLE COMMISSION,
et al.,**

Defendants.

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**Civil Action No. 04-1529
(ESH)**

ORDER

Plaintiffs are federal inmates at the United States Penitentiary in Leavenworth, Kansas. They have filed a complaint for injunctive relief alleging that they are being denied parole in violation of their constitutional rights. Although plaintiffs have brought their claim as one for declaratory and injunctive relief, their complaint actually appears to be a petition for writ of habeas corpus. Habeas corpus is the exclusive remedy for a federal prisoner bringing a claim that would have a "probabilistic impact" upon the duration of his custody. *Chatman-Bey v. Thornburgh*, 864 F.2d 804, 809 (D.C. Cir. 1988)(en banc); *see also Bourke v. Hawk-Sawyer*, 269 F.3d 1072, 1073 (D.C. Cir. 2001). Since plaintiffs' claim, if successful, would result in the reduction of their sentences, they can only seek relief through a habeas petition. *See id.* at 1074.

Habeas corpus jurisdiction resides in the district court where the prisoner is incarcerated at the time the petition is filed. *Padilla v. Rumsfeld*, 124 S.Ct. 2711, 2718 (2004); *Chatman-Bey*, 864 F.2d at 806 n.1. The warden where the petitioner resides is the custodian for purposes of habeas jurisdiction. *Stokes v. U.S. Parole Com'n*, 374 F.3d 1235, 1238 (D.C. Cir. 2004).

Plaintiffs' warden is not within this Court's territorial jurisdiction. Accordingly, it is this 17th day of September, 2004, hereby

ORDERED that the plaintiffs show cause within twenty (20) days of this Order why this cause of action should not be transferred to the United States District Court for the District of Kansas. If petitioners fail to comply with this Order by that date, the Court will direct the Clerk to transfer this case to Kansas.

s/
ELLEN SEGAL HUVELLE
United States District Judge

cc Robert Okun, Chief
Special Proceedings Section
U.S. Attorney's Office for the
District of Columbia