UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Rolando Otero,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. **09 0431**
	)	
State of Florida,	)	
	)	
Respondent.	)	

MEMORANDUM OPINION

This matter comes before the court on the plaintiff's *pro se* petition for a writ of *habeas corpus* and application to proceed *in forma pauperis*. The Court will grant the application to proceed *in forma pauperis* and will dismiss the petition for lack of jurisdiction.

Plaintiff is an inmate in the Union Correctional Institution in Raiford, Florida, serving a sentence imposed by a state court in Broward County, Florida. (Compl. at 1 & Ex. H.) He asserts that some of the officials involved in his arrest and trial — including the magistrate who authorized the arrest warrant and the judge who presided over the trial — for the crimes of which he was convicted and is now serving sentence, enhanced for a habitual felon, did not take the oath of office and therefore his arrest and trial are invalid and he is entitled to immediate release. (Compl. at 2-5.)

Federal court review of state convictions is available under 28 U.S.C. § 2254 but only after the exhaustion of available state remedies. *See* 28 U.S.C. §2254(b)(1). Thereafter, "an application for a writ of habeas corpus [] made by a person in custody under the judgment and sentence of a State court . . . may be filed in the district court for the district wherein such person

is in custody or in the district court for the district within which the State court was held which convicted and sentenced [petitioner] and each of such district courts shall have concurrent jurisdiction to entertain the application." 28 U.S.C. § 2241(d). To the extent that petitioner has exhausted his state remedies, his federal recourse lies in the United States District Court for the Southern District of Florida.

A separate final order accompanies this memorandum opinion.

Ellen S Huvelle
United States District Judge

Date: 2/16/09