

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MALCOLM M. FOMBY, #194547,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 2:05-CV-1177-N
)	
GWENDOLYN MOSELY, et al.,)	
)	
Respondents.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This case is pending before the court on a 28 U.S.C. § 2254 petition for habeas corpus relief filed by Malcolm M. Fomby [“Fomby”], a state inmate, on December 12, 2005. The petition establishes that Fomby was convicted of unlawful distribution of a controlled substance by the Circuit Court of Etowah County, Alabama on March 11, 1998. It is this conviction which Fomby challenges in the instant habeas petition.

DISCUSSION

This court “in the exercise of its discretion and in furtherance of justice” may transfer an application for writ of habeas corpus to “the district court for the district within which the State court was held which convicted” the petitioner. 28 U.S.C. § 2241(d). Fomby attacks a conviction entered against him by the Circuit Court of Etowah County, Alabama. Etowah County is located within the jurisdiction of the United States District Court for the Northern District of Alabama. In light of the foregoing, the court concludes that a transfer of this case to such other court for review and disposition is appropriate.

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be

