

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

RAY FRANK BALL, #224 928	*	
Petitioner,	*	
v.	*	2:06-CV-1139-MHT (WO)
RICHARD ALLEN, <i>et al.</i> ,	*	
Respondents.	*	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

This matter is pending before the court on a 28 U.S.C. § 2254 petition for habeas corpus filed by Petitioner in this court on December 27, 2006. In this petition, Petitioner challenges a conviction for solicitation to commit murder entered against him by the Circuit Court for Mobile County, Alabama, on August 18, 2005. Petitioner is currently incarcerated at the Fountain Correctional Facility located in Atmore, Alabama, where he is serving a life sentence.

**DISCUSSION**

This court, “in the exercise of its discretion and in furtherance of justice,” may transfer Petitioner's application for writ of habeas corpus to “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. 28 U.S.C. § 2241(d). Petitioner seeks to challenge a conviction entered against him by the Circuit Court for Mobile County,

Alabama. Mobile County is located within the jurisdiction of the United States District Court for the Southern District of Alabama and Petitioner is incarcerated in Escambia County, Alabama, which is also located within the jurisdiction of the United States District Court for the Southern District of Alabama. In light of the foregoing, the court concludes that the transfer of this case to such other court for hearing and determination is appropriate.<sup>1</sup>

#### CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be transferred to the United States District Court for the Southern District of Alabama pursuant to the provisions of 28 U.S.C. § 2241(d).

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before January 25, 2007. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual

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<sup>1</sup>A decision on Petitioner's application for *in forma pauperis* status is reserved for ruling by the United States District Court for the Southern District of Alabama.

findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5<sup>th</sup> Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11<sup>th</sup> Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11<sup>th</sup> Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

DONE, this 12<sup>th</sup> day of January, 2007.

/s/ Susan Russ Walker  
SUSAN RUSS WALKER  
UNITED STATES MAGISTRATE JUDGE