

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

JAMES EDWARD BAGLEY, #182 103	*	
Petitioner,	*	
v.	*	2:07-CV-264-MHT (WO)
CHERYL PRICE, WARDEN, <i>et al.</i> ,	*	
Respondents.	*	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This cause of action is before the court on a petition for writ of habeas corpus filed by Petitioner, an inmate in the custody of the Alabama Department of Corrections. Although Petitioner filed this action on a form for use in filing a habeas application under 28 U.S.C. § 2254, it is clear from the allegations contained therein that this case is more appropriately filed under the provisions of 28 U.S.C. § 2241. Specifically, it appears from the petition and attachments thereto that Petitioner seeks to challenge matters associated with his eligibility for correctional incentive time under the Alabama Correctional Incentive Time Act [“ACITA”]. *Ala. Code* § 14-9-40, *et seq.*

DISCUSSION

In general, a 28 U.S.C. § 2241 petition for habeas corpus relief must be filed in the district court in which a petitioner is incarcerated. *See Rumsfeld v. Padilla*, 542 U.S. 426, 124 S.Ct. 2711, 2718 (2004); *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973); *United States v. Plain*, 748 F.2d 620, 621 (11th Cir. 1984); *Blau v. United States*, 566

F.2d 526, 527 (5th Cir. 1978). Petitioner is presently incarcerated at the Bibb County Correctional Facility located in Brent, Alabama. This correctional facility is located within the jurisdiction of the United States District Court for the Northern District of Alabama. “For the convenience of parties and witnesses, [and] in the interest of justice, a district court may transfer any civil action to any other district . . . where it might have been brought.” 28 U.S.C. § 1404(a). Under the circumstances of this case as outlined herein, the court concludes that this case should be transferred to the United States District Court for the Northern District of Alabama for review and determination.¹

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be TRANSFERRED to the United States District Court for the Northern District of Alabama for all further proceedings.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before **April 9, 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.

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

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 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 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th 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 29th day of March 2007.

/s/ Terry F. Moorner
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE