

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

CAROL BURNETT PICKETT,)	
# 151005)	
)	
Petitioner,)	
)	
v.)	Civil Action No.2:09cv273-TMH
)	(WO)
EDWARD ELLINGTON, <i>et al.</i> ,)	
)	
Respondents.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This case is before the court on a *pro se* 28 U.S.C. § 2254 petition for habeas corpus relief filed by Alabama inmate Carol Burnett Pickett (“Pickett”). In her petition, Pickett challenges a prison sentence for cocaine possession imposed on her in September 2001 by the Circuit Court for Madison County, Alabama, a state trial court. Pickett claims that the trial court should award her credit against her sentence for (1) time she spent free on bond prior to trial and (2) time she spent free on parole before her parole was revoked.

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). Pickett attacks a sentence imposed upon her by the Circuit Court for Madison County, Alabama, and requests that the trial court award her credit against her sentence for time spent free on

pretrial bond and free on parole. Madison County is located within the jurisdiction of the United States District Court for the Northern District of Alabama. In light of the foregoing, this court concludes that 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 TRANSFERRED to the United States District Court for the Northern District of Alabama pursuant to the provisions of 28 U.S.C. § 2241(d).

It is further

ORDERED that on or before **June 4, 2009**, the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. 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 advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation 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 21st day of May, 2009.

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