

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

FARRAH JOANN GARZA ,	)	
# 257280,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 2:09cv482-ID
	)	(WO)
CYNTHIA S. WHEELER-WHITE, <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 Farrah JoAnn Garza (“Garza”), an Alabama inmate incarcerated at ADOC Work Relief in Birmingham. Garza challenges her sentence for drug trafficking imposed by the Circuit Court for Baldwin County, Alabama, a state trial court.

**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). Garza challenges the sentence imposed on her by the Circuit Court for Baldwin County, Alabama, requesting that the court award credit against her sentence for time she spent out on bond prior to sentencing. Baldwin County is located within the jurisdiction of the United States District Court for the Southern 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.<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 on or before June 10, 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.*

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<sup>1</sup>Although her allegations in this regard are vague, Garza also appears to claim she is entitled to receive "good time" credit on her sentence and to assert a cursory claim of prison overcrowding. In transferring the present case, this court makes no determination with respect to the merits of any of Garza's claims and deems such matters as more appropriately addressed by the United States District Court for the Southern District of Alabama. This court also notes that Garza has submitted a motion for leave to proceed *in forma pauperis* (Doc. No. 2). However, the courts finds that this motion would also more properly be considered by the transferee court.

*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 28<sup>th</sup> day of May, 2009.

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