

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

LATONY DONTA BAKER,)	
# 204127,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 2:09cv533-WHA
)	(WO)
LOUIS BOYD, <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 Latony Donta Baker (“Baker”), an Alabama inmate incarcerated at the Easterling Correctional Facility in Clio. Baker challenges a conviction and sentence imposed against him in April 2007 by the Circuit Court for Cleburne 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). Baker challenges the state conviction and sentence entered against him in April 2007 by the Circuit Court for Cleburne County. Cleburne 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.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 pursuant to the provisions of 28 U.S.C. § 2241(d).

It is further

ORDERED that on or before June 23, 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

¹This court notes that Baker has submitted a motion for leave to proceed *in forma pauperis*. (Doc. No. 2.) However, the court finds that this motion would more properly be considered by the transferee court.

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 10th day of June, 2009.

_____/s/Charles S. Coody
CHARLES S. COODY
UNITED STATES MAGISTRATE JUDGE