

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

vs.

2:06-cv-48-FtM-29DNF
2:04-cr-38-FtM-29DNF

RODNEY DUTRA

OPINION AND ORDER

_____This matter comes before the Court on defendant's Writ of Habeas Corpus to Move to a New Facility in the State of Florida Per Court Agreement (Doc. #1), filed on January 23, 2006. The Court recommended that the Bureau of Prisons locate defendant in a facility as close to home (Florida) as possible. The Bureau chose not to follow that recommendation. The location where a person is to serve his sentence is a matter within the purview of the Bureau of Prisons. A federal court has no authority to designate the location where a prisoner will be incarcerated; that function belongs to the Bureau of Prisons. 18 U.S.C. § 3621(b); Abdul-Malik v. Hawk-Sawyer, 403 F.3d 72 (2d Cir. 2005); United States v. Voda, 994 F.2d 149, 151-52 (5th Cir. 1993). There was no agreement in this case that defendant be housed in a facility in Florida, only a recommendation.


Accordingly, it is now

ORDERED:

1. Defendant's Writ of Habeas Corpus to Move to a New Facility in the State of Florida Per Court Agreement (Doc. #1) is **DENIED** and the Clerk shall close the civil case.

2. The Clerk of the Court shall place of copy of this Order in the criminal file.

DONE AND ORDERED at Fort Myers, Florida, this 26th day of January, 2006.



JOHN E. STEELE
United States District Judge

Copies:
AUSA
Rodney Dutra