

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

JAMES ENDRESS,

Petitioner,

v.

CASE NO. 4:09cv141-MMP/AK

SECRETARY,

Respondent.

REPORT AND RECOMMENDATION

This matter is before the Court on Doc. 1, Petition for Writ of Habeas Corpus, by James Endress. Petitioner is presently incarcerated in Okeechobee Correctional Institution and challenges a disciplinary report issued while he was incarcerated in Hardee Correctional Institution.

Jurisdiction is appropriate in either the United States District Court for the Southern District of Florida or in the United States District Court for the Middle District of Florida, as the districts of confinement and conviction, respectively. 28 U.S.C. § 2241(d). Under no circumstances is this cause properly pending in this district.

The district where the disciplinary report would appear to be the most convenient for witnesses should an evidentiary hearing be necessary, and therefore, transfer of this cause to the Middle District is appropriate. Mitchell v. Henderson, 432 F.2d 435, 436 (5th Cir. 1970) (division of conviction, where witnesses were located, was appropriate venue over division of

confinement in challenge to conviction); Parker v. Singletary, 974 F.2d 1562, 1582 n.118 (11th Cir. 1992) (courts should give careful consideration to convenience of witnesses in transferring habeas corpus petitions under § 2241(d)).

It is therefore respectfully **RECOMMENDED** that this case be **TRANSFERRED** to the United States District Court for the Middle District of Florida for all further proceedings.

IN CHAMBERS at Gainesville, Florida, this 17th day of April, 2009.

s/ A. KORNBLUM
ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 10 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.