

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

DAVID ELLERBY,

Petitioner,

v.

CASE NO. 1:06-cv-00244-MP-AK

JAMES MCDONOUGH,

Defendant.

REPORT AND RECOMMENDATION

This matter is before the Court on Doc. 1, Petition for Writ of Habeas Corpus, filed by David Ellerby. Petitioner has also filed a motion for leave to proceed *in forma pauperis*. Doc. 2.

Petitioner is currently incarcerated in Marion Correctional Institution and challenges his conviction out of the Circuit Court of Putnam County. Doc. 1 at 1. Jurisdiction is therefore appropriate in the United States District Court for the Middle District of Florida, as the district of confinement and conviction. 28 U.S.C. § 2241(d). Under no circumstances is this cause properly pending in this district.

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 7th day of December, 2006.

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.