

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

**THERON A. TOSON,**

**Petitioner,**

**vs.**

**CASE NO. 1:08CV200-MMP/AK**

**STATE OF FLORIDA,**

**Respondent.**

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**REPORT AND RECOMMENDATION**

This cause is before the Court on Petitioner's § 2241 petition. Doc. 1. Petitioner is currently incarcerated at Dade Correctional Institution in Florida City, Florida, which is located in the Southern District. To the extent that this is a § 2241 petition, the ultimate decision regarding its merits cannot be made by this Court, as § 2241 petitions may be brought only in the district court for the district in which the inmate is incarcerated.

*Fernandez v. United States*, 941 F.2d 1488, 1495 (11th Cir.1991).

To the extent that this is in fact a § 2254 petition, because Petitioner is currently incarcerated in Dade CI and challenges a conviction from Palm Beach County, Florida, jurisdiction is appropriate in the United States District Court for the Southern 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.

In light of the foregoing, it is respectfully **RECOMMENDED** that Petitioner's petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241, Doc. 1, be **TRANSFERRED** to the United States District Court for the Southern District of Florida.

**IN CHAMBERS** at Gainesville, Florida, this 18th Day of September, 2008.

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.