

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

ROBERT A. HULL,

Petitioner,

v.

CASE NO. 1:08-cv-229-MP-AK

GEORGE SHELDON AND
WILLIAM BAXTER,

Respondents.

ORDER

This matter is before the Court on Doc. 1, Petition for Writ of Habeas Corpus, filed by Robert A. Hull. The petition is filed on a § 2254 form. It is not clear whether this is the appropriate form for Petitioner's status. If he is a pretrial detainee, then the appropriate avenue for relief is § 2241, not § 2254. *Hughes v. Attorney General*, 377 F.3d 1258 (11th Cir. 2004) (pretrial petition for habeas relief is properly asserted pursuant to § 2241); *Medberry v. Crosby*, 351 F.3d 1049, 1060 (11th Cir. 2003) (relief under § 2241 is reserved for those instances in which petitioner is not in custody pursuant to state court judgment, such as where pretrial detainee complains that his detention violates Constitution or laws of United States). If, however, he is presently in state custody under a judgment of conviction, then § 2254 is the proper means for attacking an allegedly unconstitutional conviction or confinement.

As it stands, the Court cannot determine Petitioner's status. For example, on page 1 of his petition, he indicates that although he has not been convicted, his sentence is 4 years and 7

months. Doc. 1. He then indicates that he has not had a trial but that he has matters pending before other courts. *Id.* In short, the Court is confused on Petitioner's status, which affects not only the statute under which Petitioner may pursue relief but also questions of jurisdiction, exhaustion, and timeliness. Petitioner must therefore amend his petition on the appropriate form, depending on his status as either a pretrial detainee (§ 2241) or a person in custody pursuant to a state court judgment (§ 2254). **Petitioner must choose one form or the other, and in no event shall he file an amended petition on both forms.**

Accordingly, it is **ORDERED**:

That the Clerk shall forward to Petitioner four § 2241 forms and four § 2254 forms, along with any service copies of the initial petition;

That no later than **September 2, 2005**, Petitioner shall file an "amended petition" on **either** a § 2241 form **or** a § 2254 form, along with two identical copies including any exhibits. He shall also keep an identical copy for his records;

That failure to respond to this order as instructed will result in a recommendation of dismissal of this action for failure to prosecute and failure to comply with an order of this court.

DONE AND ORDERED this 6th day of February, 2009.

s/ A. KORNBLUM

ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE