

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

JORGE HERNANDEZ,

Petitioner,

vs.

Case No. 4:09cv242-MP/WCS

WALTER A. McNEIL,

Respondent.

/

REPORT AND RECOMMENDATION TO TRANSFER § 2254 PETITION

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and motion to proceed in forma pauperis. Docs. 1 and 2. Petitioner recently submitted a notice of inquiry, stating he has received no acknowledgment that his petition was received by the court. Doc. 4. Petitioner is advised that his petition was received on July 6, 2009, and a notice was sent to him from the clerk, which would have included the case number. See docket entry of July 8, 2009.

Petitioner is currently incarcerated at the South Bay Correctional Facility, and challenges the judgment of the Third Judicial Circuit Court in Suwannee County, Florida. Jurisdiction is appropriate in the Southern and Middle Districts, as the districts of confinement and conviction, respectively. 28 U.S.C. § 2241(d).

The district of conviction would appear to be the most convenient and appropriate venue, and the petition should be transferred to the Middle District of Florida. § 2241(d). See also, Parker v. Singletary, 974 F.2d 1562, 1582 and nn. 114 and 118 (11th Cir. 1992) (finding transfer "in furtherance of justice" under § 2241(d), citations omitted); Eagle v. Linahan, 279 F.3d 926, 933, n. 9 (11th Cir. 2001) (noting the practice of district courts in Georgia to transfer petitions to the district of conviction under § 2241(d)).

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

IN CHAMBERS at Tallahassee, Florida on September 16, 2009.

s/ William C. Sherrill, Jr.
WILLIAM C. SHERRILL, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

Within 15 days after being served with a copy of this report and recommendation, a party may serve and file specific, written objections to the proposed findings and recommendations. 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.