

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

HENRY DEWITT,

Petitioner,

vs.

4:09cv257-SPM/WCS

STATE OF FLORIDA,

Respondent.

REPORT AND RECOMMENDATION TO TRANSFER § 2254 PETITION

Petitioner filed a petition, and was directed to file an amended petition for writ of habeas corpus using forms for filing a petition pursuant to 28 U.S.C. § 2254. Doc. 3.

Petitioner has filed a motion to proceed in forma pauperis and an amended § 2254 petition. Docs. 8 and 9.

On review of the petition, it is clear that Petitioner challenges the conviction of the Third Judicial Circuit in Columbia County. According to the website of the Florida Department of Corrections, Petitioner was released on March 23, 2007, but is serving a term of sex offender probation until May of 2011. He is being held at the Civil Commitment Center in Arcadia, DeSoto County, Florida.

Jurisdiction is appropriate in the Middle District of Florida as the district of confinement and conviction. 28 U.S.C. § 2241(d). The district of conviction is usually

the most convenient and appropriate venue, though in this case the district of confinement is the same. The petition should be transferred to the Middle District under § 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 general practice in Georgia of transferring petitions to the district of conviction 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 Tallahassee, Florida on August 13, 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.