

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 10-23638-CIV-LENARD/WHITE

DANIEL GARCIA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION (D.E. 4) AND
TRANSFERRING CASE TO THE NORTHERN DISTRICT OF FLORIDA**

THIS CAUSE is before the Court on the Report and Recommendation of Magistrate Judge Patrick A. White (“Report,” D.E. 4), issued on October 25, 2010. Petitioner Daniel Garcia (“Garcia”) filed his Objections to the Report (“Objections,” D.E. 5) on November 9, 2010. After a *de novo* review of the Report, the Objections and the record, the Court finds as follows.

The Report finds that Garcia’s Petition for Writ of Habeas Corpus (“Petition,” D.E. 1) attacks his conviction in case no. 98-49-SPM, entered in the United States District Court for the Northern District of Florida. (Report at 1.) The Report also finds that this is a successive petition, filed without first obtaining leave from Eleventh Circuit as required in 28 U.S.C. § 2244(b)(3)(A). (*Id.*) Consequently, the Report recommends transferring this Petition to the Northern District of Florida. (*Id.* at 2.)

Plaintiff objects to the Report, challenging the legality of his incarceration and

asserting actual innocence. (Objections at 1-3.) The Court need not address these arguments. It is well-settled that a § 2255 motion to vacate must be brought in the district where the movant was sentenced. Garcia cites no authority to the contrary. Thus, his Objections are without merit.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

1. The Report and Recommendations of the Magistrate Judge (D.E. 4), issued on October 25, 2010, is **ADOPTED**.
2. The Clerk of this Court shall take all necessary action to **TRANSFER** this Case to the United States District Court for the Northern District of Florida.
3. This Case is now **CLOSED**.

DONE AND ORDERED in Chambers at Miami, Florida this 22nd day of February, 2011.


JOAN A. LENARD
UNITED STATES DISTRICT JUDGE