

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**JAMES EDWARD LACKEY, JR.,**

**Plaintiff,**

**v.**

**1:14-cv-3166-WSD**

**EUGENE BENTON et al.,**

**Defendants.**

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**OPINION AND ORDER**

This matter is before the Court on Magistrate Judge Linda T. Walker's Final Report and Recommendation ("R&R") [3], recommending transfer of this action to the U.S. District Court for the Middle District of Georgia, Athens Division, for further proceedings.

**I. BACKGROUND**

Plaintiff is incarcerated at the Walton County Jail in Monroe, Georgia. ([1]). Plaintiff, *pro se*, seeks relief under 42 U.S.C. § 1983 against the judge, public defender, and probation officer involved in his criminal case in the Superior Court of Walton County. (*Id.*). Plaintiff complains of the criminal prosecution. (*Id.*). On October 10, 2014, the Magistrate Judge issued her R&R, recommending transfer of this action to the U.S. District Court for the Middle District of Georgia,

Athens Division, because Plaintiff's complaint concerns only acts allegedly committed in Walton County by Walton County officials. (R&R at 1). Walton County is located within the territorial jurisdiction of the U.S. District Court for the Middle District of Georgia.

## II. DISCUSSION

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982) (per curiam). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). Where, as here, no party has objected to the report and recommendation, a court conducts only a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983) (per curiam).

A district court must transfer a case filed in the wrong court to a court in which venue is proper "if it be in the interest of justice." 28 U.S.C. § 1406(a). The Magistrate Judge determined that, because Plaintiff is proceeding *pro se* and likely does not know the laws regarding venue, it is in the interest of justice to transfer this case to the proper venue. The Court finds no plain error in the

Magistrate Judge's findings and recommendation.


### III. CONCLUSION

For the foregoing reasons,

**IT IS HEREBY ORDERED** Magistrate Judge Linda T. Walker's Final Report and Recommendation [3] is **ADOPTED**.

**IT IS FURTHER ORDERED** that this action is **TRANSFERRED** to the U.S. District Court for the Middle District of Georgia, Athens Division.

**SO ORDERED** this 8th day of October, 2015.

  
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WILLIAM S. DUFFEY, JR.  
UNITED STATES DISTRICT JUDGE