

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-23810-CIV-HUCK  
MAGISTRATE JUDGE P.A. WHITE

GBEKE MICHAEL AWALA,	:	
	:	
Petitioner,	:	
v.	:	<u>REPORT RECOMMENDING TRANSFER</u>
	:	<u>OF VENUE</u>
	:	<u>28 U.S.C. §2241</u>
IMMIGRATION JUDGE, ET AL	:	
	:	
Respondent.	:	

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Gbeke Michael Awala, a prisoner confined at the York County Prison in York, Pa, has filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. §2241-43, seeking a stay of deportation. He has also titled this pleading a writ of mandamus to seek an order compelling the federal government to pay him one billion dollars in damages.

The institution where the petitioner is confined is located in York, Pennsylvania.

The applicable venue provision for a §2241 action is 28 U.S.C. §2241(d), which provides concurrent jurisdiction in the district of confinement and the district of conviction, when a state conviction is attacked as unconstitutional. This petition does not attack the validity of a conviction, and the appropriate venue is therefore the district of confinement. See: Fernandez v. United States, 941

F.2d 1488, 1495 (11<sup>th</sup> Cir. 1991); Hajduk v. United States, 764 F.2d 795 (11 Cir. 1985); and United States v. Boccadisi, 468 F.Supp. 419 (E.D.N.Y. 1979).

It is therefore recommended that the Clerk be directed to transfer this case to the correct District Court for York, Pennsylvania, pursuant to 28 U.S.C. §1406(a).

Objections to this report may be filed with the District Judge within fourteen days of receipt of a copy of the report.

Dated this 29<sup>th</sup> day of December, 2009.



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UNITED STATES MAGISTRATE JUDGE

cc: Gbeke Michael Awala, Pro Se  
No. 133892  
York County Prison  
3400 Concord Rd  
York, Pa. 17402