

876 F.2d 1485 (1989)

**Ronald E. SPEARS, Plaintiff-Appellant,
v.
W.E. JOHNSON, Warden, Defendant-Appellee.**

[No. 88-7062.](#)

United States Court of Appeals, Eleventh Circuit.

June 21, 1989.

Ronald E. Spears, Bessemer, Ala., pro se.

Don Siegelman, Atty. Gen., P. David Bjurberg, Asst. Atty. Gen., Montgomery, Ala., for defendant-appellee.

Before HILL, KRAVITCH and EDMONDSON, Circuit Judges.

BY THE COURT:

Since the publication of the Court's October 19, 1988 opinion, the mandate has been held here. We have discovered that our opinion that the case be transferred was based upon an incorrect premise. The case into which we ordered this case merged had been closed prior to our October 19, 1988 judgment.

The Court has *sua sponte* reconsidered the case. That portion of the October 19, 1988 opinion which transferred this case to the Middle District of Alabama is VACATED. The case shall remain in the Southern District of Alabama.

The judgment and opinion, other than as stated above, remains in effect. Let the mandate issue.