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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY E. MACK,
Petitioner,
v.
DAVID BAUGHMAN,
Respondent.

No. 2:16-cv-1300 MCE KJN P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 16, 2016, the undersigned filed findings and recommendations and recommended that this action be dismissed without prejudice based on petitioner’s failure to pay the filing fee, and denied petitioner’s request for change of venue because it appeared petitioner was challenging a policy under 42 U.S.C. § 1983 rather than the fact or duration of his confinement under 28 U.S.C. 2254.

On August 25, 2016, petitioner paid the filing fee. On September 8, 2016, after receiving an extension of time, petitioner filed objections to the findings and recommendations. In his objections, petitioner confirms that he was falsely imprisoned in Los Angeles County at the time of the allegations set forth in his pleading, and contends that he challenges the fact and duration


1 of such confinement in Los Angeles County rather than the conditions of his confinement under
2 42 U.S.C. § 1983. While both this court and the United States District Court in the district where
3 petitioner was convicted or re-sentenced have jurisdiction, see Braden v. 30th Judicial Circuit
4 Court, 410 U.S. 484 (1973), any and all witnesses and evidence necessary for the resolution of
5 petitioner's application are more readily available in Los Angeles County. Id. at 499 n.15; 28
6 U.S.C. § 2241(d).

7 Thus, the findings and recommendations are vacated, and this action is transferred to the
8 Central District of California.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The findings and recommendations filed August 16, 2016 (ECF No. 6), are vacated;
11 and
12 2. This matter is transferred to the United States District Court for the Central District of
13 California.

14 Dated: September 13, 2016

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16 _____
17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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