

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DERRECK E. SUNDERLAND,)
Petitioner,) No. C 08-4516 CRB (PR)
vs.) ORDER OF TRANSFER
JAMES D. HARTLEY, Acting Warden,) (Doc # 2, 3 & 5)
Respondent.)

Petitioner seeks federal habeas review of the execution of a sentence imposed by the Superior Court of the State of California in and for the County of San Francisco, which lies in this judicial district. See 28 U.S.C. § 84(a). Petitioner is incarcerated at Avenal State Prison in Avenal, County of Kings, which lies in the Eastern District of California. See id. § 84(b).

Venue is proper in a habeas action in either the district of conviction or the district of confinement, id. § 2241(d); however, the district of confinement is the preferable forum to review the execution of a sentence. See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989); cf. Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968) (district of conviction preferable forum to review conviction).

Because the County of Kings lies in the Eastern District of California, the court orders that pursuant to 28 U.S.C. § 1404(a) and Habeas Local Rule 2254-3(b), and in the interest of justice, this petition be transferred to the United States District Court for the Eastern District of California.

The clerk shall transfer this matter and terminate all pending motions as moot.

SO ORDERED.

DATED: Jan. 13, 2009


CHARLES R. BREYER
United States District Judge