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

ANTONIO BRAZILE,

Petitioner,

No. CIV S-09-0203 GGH P

vs.

KATHY MENDOZA-POWERS,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ Petitioner, convicted in Los Angeles County Superior Court and serving a 16-year-to-life sentence, is currently incarcerated at Avenal State Prison.²

Petitioner challenges a parole denial at a subsequent parole consideration hearing in 2006. Avenal State Prison is located in Kings County which is part of the Fresno Division of

¹ Petitioner does not appear either to have filed an in forma pauperis application or to have paid the filing fee.

² The respondent in this action is “the state officer having custody of” petitioner. Stanley v. Cal. Supreme Court, 21 F.3d 359, 360 (9th Cir.1994); Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992) (“A custodian ‘is the person having a day-to-day control over the prisoner. That person is the only one who can produce ‘the body’ of the petitioner.”)

1 the United States District Court for the Eastern District of California. See Local Rule 3-120(d).

2 Pursuant to Local Rule 3-120(f), a civil action which has not been commenced in
3 the proper division of a court may, on the court's own motion, be transferred to the proper
4 division of the court. Therefore, this action will be transferred to the Fresno Division of the
5 court. This court will not rule on petitioner's request to proceed in forma pauperis.

6 Good cause appearing, IT IS HEREBY ORDERED that:

7 1. This court has not issued any order with regard to the filing of an in forma
8 pauperis application or payment of the filing fee;

9 2. This action is transferred to the United States District Court for the Eastern
10 District of California sitting in Fresno; and

11 3. All future filings shall reference the new Fresno case number assigned and
12 shall be filed at:

13 United States District Court
14 Eastern District of California
15 2500 Tulare Street
16 Fresno, CA 93721

16 DATED: February 3, 2009

17 /s/ Gregory G. Hollows

18 _____
19 GREGORY G. HOLLOWES
20 UNITED STATES MAGISTRATE JUDGE

20 GGH:009/mp
21 braz0203.109