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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

YONG SHAO MA,	)	1:09-cv-00326 AWI YNP [DLB] (HC)
	)	
Petitioner,	)	ORDER REQUIRING RESPONDENT TO
	)	SUBMIT ANSWER ADDRESSING MERITS
v.	)	OF PETITION
	)	
JANET NAPOLITANO, et al.,	)	ORDER REQUIRING RESPONDENT TO
	)	SUBMIT NOTICE OF APPEARANCE
Respondent.	)	ORDER DIRECTING CLERK OF COURT
	)	TO SERVE DOCUMENTS
<hr/>		
	)	

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

Writ of habeas corpus relief extends to a person in custody under the authority of the United States. See 28 U.S.C. § 2241. While a federal prisoner who wishes to challenge the validity or constitutionality of his conviction must bring a petition for writ of habeas corpus under 28 U.S.C. § 2255, a petitioner challenging the manner, location, or conditions of that sentence's execution must bring a petition for writ of habeas corpus under 28 U.S.C. § 2241. See, e.g., Capaldi v. Pontesso, 135 F.3d 1122, 1123 (6<sup>th</sup> Cir. 1998); United States v. Tubwell, 37 F.3d 175, 177 (5<sup>th</sup> Cir. 1994); Kingsley v. Bureau of Prisons, 937 F.2d 26, 30 n.5 (2<sup>nd</sup> Cir. 1991); United States v. Jalili, 925 F.2d 889, 893-94 (6<sup>th</sup> Cir. 1991); Barden v. Keohane, 921 F.2d 476, 478-79 (3<sup>rd</sup> Cir. 1991); United States v. Hutchings, 835 F.2d 185, 186-87 (8<sup>th</sup> Cir. 1987); Brown v. United States, 610 F.2d 672, 677 (9<sup>th</sup> Cir. 1990). A petitioner filing a petition for writ of habeas corpus under 28 U.S.C. § 2241 must file the petition in the judicial district of the petitioner's custodian. Brown, 610 F.2d at 677.

1 In this case, Petitioner contends he is being indefinitely detained. Petitioner is challenging the  
2 execution of his sentence rather than the imposition of that sentence. Thus, his petition is proper  
3 under 28 U.S.C. § 2241. In addition, because Petitioner is currently incarcerated at Taft Correctional  
4 Institute (“TCI”), and TCI is within the Eastern District of California, this Court has jurisdiction to  
5 proceed to the merits of the petition. See U.S. v. Giddings, 740 F.2d 770, 772 (9th Cir.1984).

6 **ORDER**

7 Accordingly, pursuant to Rule 4 of the Rules Governing Section 2254 Cases,<sup>1</sup> the Court  
8 HEREBY ORDERS:

- 9 1. Respondent SHALL FILE an ANSWER addressing the merits of the Petition within  
10 **SIXTY (60)** days of the date of service of this order. Respondent shall include with  
11 the response any and all transcripts or other documents relevant to the resolution of  
12 the issues presented in the petition, including copies of appeals taken by a prisoner  
13 within the prison and before the Bureau of Prisons.<sup>2</sup> Rule 5 of the Rules Governing  
14 Section 2254 Cases. The Court recognizes that Counsel on behalf of the Government  
15 and/or the Institution<sup>3</sup> may wish to respond on separate issues raised in the Petition.  
16 However, the Court will accept only one (1) “Answer.” Such Answer SHALL  
17 CONTAIN all argument with respect to all of the issues raised in the Petition, whether  
18 formulated by Counsel for the Government or the Institution.
- 19 2. Respondent SHALL FILE a Notice of Appearance within **TWENTY (20)** days of the  
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21 <sup>1</sup>The Rules Governing Section 2254 Cases may be applied to petitions for writ of habeas corpus other than those  
22 brought under § 2254 at the Court’s discretion. See, Rule 1 of the Rules Governing Section 2254 Cases. Civil Rule  
23 81(a)(2) provides that the rules are “applicable to proceedings for . . . habeas corpus . . . to the extent that the practice in  
such proceedings is not set forth in statutes of the United States and has heretofore conformed to the practice of civil  
actions.” Fed. R. Civ. P 81(a)(2).

24 <sup>2</sup>In the event Respondent is unable to obtain a photocopy of prisoner appeals and intends to file a computerized  
25 printout of the disposition, Respondent must also provide the Court with translation of the internal codes used in the  
26 printout. To the extent the claims concern prison policy and procedure not accessible to the Court by electronic means  
(Westlaw/Lexis), Respondent must provide the Court with a photocopy of all prison policies and/or procedures at issue in  
the case. This includes any *internal* prison policies of which a prisoner complains and is subject to.

27 <sup>3</sup>Counsel for the “Institution” means private Counsel representing contracted facilities such as Taft Correctional  
28 Institution, (Wackenhut Corrections Corporation), or California City Correctional Center (Corrections Corporation of  
America).

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date of service of this Order. The Notice SHALL indicate the name of the individual(s) who will be representing the Government and/or the Institution. The Notice is necessary to ensure that the appropriate counsel for Respondent is being served by the Court. The submission of the Notice of Appearance will terminate Court service on those listed in paragraph 4.

- 3. Petitioner's TRAVERSE, if any, is due on or before **THIRTY (30)** days from the date Respondent's Answer is filed.
- 4. The Clerk of the Court SHALL serve a copy of this Order along with a copy of the Petition and all exhibits on the Office of the United States Attorney for the Eastern District of California, an agent for the appropriate Correctional Institution if applicable, and the United States Bureau of Prisons.

All motions shall be submitted on the record and briefs filed without oral argument unless otherwise ordered by the Court. Local Rule 78-230(h). All provisions of Local Rule 11-110 are applicable to this order.

IT IS SO ORDERED.

**Dated:** November 2, 2009

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE