1 2 3 4 5 UNITED STATES DISTRICT COURT 6 7 EASTERN DISTRICT OF CALIFORNIA 8 9 ANTHONY DIAZ MORENO, CASE NO. 1:15-CV-564---SMS (HC) 10 Petitioner, ORDER TRANSFERRING CASE TO THE UNITED STATES DISTRICT COURT, 11 CENTRAL DISTRICT OF CALIFORNIA v. 12 K. HOLLAND. 13 Respondent. 14 15 16 Petitioner is a prisoner with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 17 2254. Petitioner is incarcerated at a California Correctional Institution in Tehachapi, California. 18 However, because Petitioner challenges his conviction in this petition, this case will be transferred 19 to the district of conviction, the Central District of California. 20 Venue in a habeas action is proper in either the district of confinement or the district of 21 conviction. See 28 U.S.C. § 2241(d). Petitions challenging execution of sentence are preferably 22 heard in the district where the inmate is confined. See Dunne v. Henman, 875 F.2d 244, 249 (9th 23 Cir. 1989). Petitions challenging conviction are preferably heard in the district of conviction. 24 Habeas L. R. 2254-3(a) (b). "For the convenience of parties and witnesses, in the interest of 25 justice, a district court may transfer any civil action to any other district or division where it might 26 have been brought." 28 U.S.C. § 1404(a). Pursuant to Local Rule 120(f), a civil action which has 27 not been commenced in the proper court, may, on the court's own motion, be transferred to the 28 proper court.

Here, Petitioner alleges that he is being held in violation of the constitution based on ineffective assistance of counsel, newly discovered evidence which may have affected the jury's verdict, and improper reference by the prosecution to his failure to testify. These alleged errors challenge his conviction. Petitioner was convicted by a jury in the Superior Court of the County of Los Angeles – Eastern District, Pomona. Hence, venue in the Central District of California is preferred.

Therefore, it is hereby ORDERED that this action is transferred to the United States

District Court for the Central District of California.

IT IS SO ORDERED.

Dated: October 8, 2015 /s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE