

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

ANTHONY R. BARRON,
Petitioner,

v.

KAMALA HARRIS,
Respondent.

1:15-cv-00983 MJS HC

**ORDER TRANSFERRING CASE TO THE
NORTHERN DISTRICT OF CALIFORNIA**

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

1 Venue for a habeas action is proper in either the district of confinement or the
2 district of conviction. 28 U.S.C. § 2241(d). The district court for the district wherein such
3 an application is filed in the exercise of its discretion and in furtherance of justice may
4 transfer the application to the other district court for hearing and determination. Id.

5 It is preferable for petitions challenging a conviction or sentence to be heard in the
6 district of conviction while petitions challenging the manner in which the sentence is
7 being executed be heard in the district of confinement. Dunne v. Henman, 875 F.2d 244,
8 249 (9th Cir. 1989). In this case, Petitioner is challenging the manner in which the
9 sentence is being executed. Specifically, Petitioner is challenging the application of a
10 recently enacted California law to his credit earning capacity. Therefore, the petition
11 should have been filed in the district of confinement, the United States District Court for
12 the Northern District of California. In the interest of justice, the petition will be transferred
13 to the United States District Court for the Northern District of California. 28 U.S.C. §§
14 1404(a) and 2241(d).

15 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the
16 United States District Court for the Northern District of California.

17
18 IT IS SO ORDERED.

19 Dated: July 2, 2015

/s/ Michael J. Seng
20 UNITED STATES MAGISTRATE JUDGE