## 1 2 3 4 5 6 7 8 UNIT 9 E. 10 11 ALEJANDRO MORALES, 12 Petitioner, 13 v. 14 NEIL MCDOWELL.

## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

Petitioner,
v.
NEIL MCDOWELL,
Respondent.

Case No. 1:15-cv-01051- GSA-HC

ORDER TRANSFERING CASE TO THE CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On July 9, 2015, Petitioner filed the instant petition for writ of habeas corpus in this Court challenging his disciplinary convictions for manufacturing alcohol and resisting a peace officer. Petitioner has consented to the jurisdiction of the Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 5).

When a prisoner files a state habeas petition in a state that contains two or more federal judicial districts, the petition may be filed in either the judicial district in which the petitioner is presently confined or the judicial district in which he was convicted and sentenced. See 28 U.S.C. § 2241(d); Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (quoting Carbo v. United States, 364 U.S. 611, 618, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961)). Petitions challenging convictions or sentences are preferably heard in the district of conviction. See Laue v. Nelson, 279 F.Supp. 265, 266 (N.D.Cal. 1968). Petitions challenging the execution of a sentence are

preferably heard in the district where the inmate is confined. <u>See Dunne v. Henman</u>, 875 F.2d 244, 249 (9th Cir. 1989). Section 2241 further states that, rather than dismissing an improperly filed action, a district court, "in the exercise of its discretion and in furtherance of justice[,] may transfer" the habeas petition to another federal district for hearing and determination. <u>Id.</u>; <u>see also 28 U.S.C. § 1404(a)</u> (court may transfer any civil action "to any other district or division where it might have been brought" for convenience of parties or "in the interest of justice").

The instant petition attacks a disciplinary conviction and associated loss of credit which amounts to a challenge to the execution of Petitioner's sentence. Petitioner is presently confined at Ironwood State Prison, which is in Riverside County, which is within the jurisdictional boundaries of the United States District Court for the Central District of California, Eastern Division. See 28 U.S.C. § 84(c)(1). Therefore, venue is proper in the Central District of California, Eastern Division.

Accordingly, the Court HEREBY ORDERS that the petition for writ of habeas corpus be TRANSFERED to the United States District Court for the Central District of California, Eastern Division.

19 Dated:

IT IS SO ORDERED.

Dated: **July 22, 2015** 

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE