

UNITED STATES DISTRICT COURT
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102

www.cand.uscourts.gov

Richard W. Wieking
Clerk

General Court Number
415.522.2000

February 16, 2006

FILED

FEB 21 2006

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

05-CV-2520 FCD CMK PC

RE: CV 06-00413 JSW ERIC C.R. KNAPP-V-ALINAS VALLEY STATE PRISON

Dear Clerk,

Pursuant to an order transferring the above captioned case to your court, transmitted herewith are:

- Certified copy of docket entries.
- Certified copy of Transferral Order.
- Original case file documents.

(PC) Knapp v. Hickman [eCal](#) Please access the electronic case file for additional pleadings you may need. See [Doc. 11](#)
the attached instructions for details.

Please acknowledge receipt of the above documents on the attached copy of this letter.

Sincerely,
RICHARD W. WIEKING, Clerk
HILARY JACKSON

by: Hilary D. Jackson
Case Systems Administrator

Enclosures
Copies to counsel of record

ECF DOCUMENT

I hereby attest and certify this is a printed copy of a document which was electronically filed with the United States District Court for the Northern District of California.

Date Filed: February 16, 2006

RICHARD W. WIERING, Clerk

By: [Signature], Deputy Clerk

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

FILED

FEB 21 2006

ERIC CHARLES RODNEY K'NAPP,

Plaintiff,

vs.

RODERICK Q. HICKMAN, et al,

Defendants.

No. C 06-0413 JSW
CLERK, U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

ORDER OF TRANSFER

Plaintiff is a state prisoner currently incarcerated at Salinas Valley State Prison, located in Soledad, California, within the venue of the United States District Court for the Northern District of California. He filed this civil rights action in the United States District Court for the Eastern District of California on December 12, 2005, complaining of violations of his civil rights while incarcerated at Mule Creek State Prison, located in Ione, California. On December 29, 2005, this matter was transferred to the United States District Court for the Northern District of California. On January 9, 2006, Plaintiff responded to the order of transfer in the form of a letter to the United States District Court for the Eastern District, which was forwarded to this Court. In his letter, Plaintiff points out that the allegations in the complaint refer to Defendants who reside and conduct that occurred at Mule Creek State Prison in Amador County, within the venue of the United States District Court for the Eastern District of California.

After this Court's review of the complaint, it appears that Plaintiff's complaint was indeed filed in the proper district. When jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the


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1 events or omissions giving rise to the claim occurred, or a substantial part of property
2 that is the subject of the action is situated, or (3) a judicial district in which any
3 defendant may be found, if there is no district in which the action may otherwise be
4 brought. 28 U.S.C. § 1391(b). Where a case is filed in the wrong venue, the district
5 court has the discretion either to dismiss the case or transfer it to the proper federal court
6 "in the interest of justice." 28 U.S.C. § 1406(a). Venue may be raised by the court sua
7 sponte where the defendant has not yet filed a responsive pleading and the time for doing
8 so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986).

9 Plaintiff alleges events occurring and Defendants residing in Amador County,
10 within the venue of the Eastern District of California. See 28 U.S.C. § 84. Therefore,
11 the Court will transfer this action back to the United States District Court for the Eastern
12 District of California. Accordingly, IT IS ORDERED in the interest of justice, and
13 pursuant to 28 U.S.C. § 1406(a), that this action be TRANSFERRED to the United
14 States District Court for the Eastern District of California. The Clerk of the Court shall
15 transfer this matter forthwith.

16 IT IS SO ORDERED.

17 DATED: February 16, 2006

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19 _____
20 JEFFREY S. WHITE
21 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED

JAN 23 2006

Dear Sir or Madam:

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

C 06 0413

Your complaint has been filed as civil case number

Your complaint is deficient because:

JSW (PR)

1. ___ You did not pay the appropriate filing fee of \$250.00. If you are unable to pay the entire filing fee at this time, you must sign and complete this court's Prisoner's In Forma Pauperis Application in its entirety.

2. The In Forma Pauperis Application you submitted is insufficient because:

You did not use the correct form. You must submit this court's current Prisoner's In Forma Pauperis Application.

___ Your In Forma Pauperis Application was not completed in its entirety.

___ You did not sign your In Forma Pauperis Application.

___ You did not submit a Certificate of Funds in Prisoner's Account completed and signed by an authorized officer at the prison.

___ You did not attach a copy of your prisoner trust account statement showing transactions for the last six months.

___ Other _____

Enclosed you will find this court's current Prisoner's In Forma Pauperis Application, which includes a Certificate of Funds in Prisoner's Account form, and a return envelope for your convenience.

Warning: If you do not respond within THIRTY DAYS from the filing date stamped above, your action will be dismissed and the file closed. If you submit the application, you will automatically be liable for the full filing fee, regardless of your present ability to pay the full amount of the fee.

Sincerely,
RICHARD W. WIEKING, Clerk,

By [Signature]
Deputy Clerk

KNAPP

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED

JAN 23 2006

OFFICE OF THE CLERK
501 "I" STREET
SACRAMENTO, CA 95814
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

USDC - Northern District of CA
P. O. Box 36060
San Francisco, CA 94102

C 06 0413

RE: Eric C. R. Knapp v. Hickman, et al / 2:05-CV-2520 FCD CMK PC

JSW (PR)

Dear Clerk,

Pursuant to the Order transferring the above captioned case to your court, dated DECEMBER 29, 2005, transmitted herewith are a certified copy of the transferral order and the original case file documents.

Please acknowledge receipt of the above documents by endorsing the copy of this letter provided.

Sincerely,

Jack L Wagner, Clerk

/s/ M. Marciel

By: M. Marciel, Deputy Clerk

DATE RECEIVED: _____

COURT: _____

NEW CASE NUMBER: _____

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

ERIC CHARLES RODNEY K'NAPP,

Plaintiff,

No. CIV S-05-2520 FCD CMK P

vs.

HICKMAN, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983.

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 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).

In this case, none of the defendants reside in this district. The claim arose in Monterey County, which is in the Northern District of California. Therefore, plaintiff's claim should have been filed in the United States District Court for the Northern District of California.

1 In the interest of justice, a federal court may transfer a complaint filed in the wrong district to the
2 correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir.
3 1974).

4 In addition, plaintiff has requested the appointment of counsel. The United States
5 Supreme Court has ruled that district courts lack authority to require counsel to represent
6 indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298
7 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of
8 counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir.
9 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the
10 court does not find the required exceptional circumstances.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. This matter is transferred to the United States District Court for the Northern
13 District of California; and
14 2. This court has not ruled on plaintiff's request for the appointment of counsel.
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17 DATED: December 28, 2005.

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20 **CRAIG M. KELLISON**
21 UNITED STATES MAGISTRATE JUDGE
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CLOSED, PRISONER_CIVIL_RIGHTS

**U.S. District Court
Eastern District of California - Live System (Sacramento)
CIVIL DOCKET FOR CASE #: 2:05-cv-02520-FCD-CMK
Internal Use Only**

(PC) Knapp v. Hickman et al
Assigned to: Judge Frank C. Damrell, Jr
Referred to: Magistrate Judge Craig M. Kellison
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 12/12/2005
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil
Rights
Jurisdiction: Federal Question

Plaintiff

Eric Charles Rodney Knapp

represented by **Eric Charles Rodney Knapp**
J-10618
SVSP
PO Box 1050
Soledad, CA 93960-1050
PRO SE

V.

Defendant

Roderick Q. Hickman
Cabinet Secretary

Defendant

N Ali
C.O.

Defendant

- Broyles
C.O.

Defendant

- Clevestine

Defendant

R Fowler
C.O.

Defendant

R Gunning

Defendant

S Hein

C.O.

Defendant

- Hensley

C.O.

Defendant

- Hogan

C.O.

Defendant

Lorraine Kaiser

C.O.

Defendant

- Keeland

C.O.

Defendant

- Leeworthy

C.O.

Defendant

- Mesa

C.O.

Defendant

T Nelson

C.O.

Defendant

J O'Connor

C.O.

Defendant

R Poe

C.O.

Defendant

R.J. Robinson

C.O.

Defendant

E Saucedo

C.O.

Defendant

- Smith

C.O.

Defendant

Ryan Stewart
C.O.

Defendant

J Whittle
C.O.

Defendant

M. Brown
C.O.

Defendant

C Campbell
C.O.

Defendant

R Carrillo
C.O.

Defendant

- Cherry
C.O.

Defendant

D Doherty
C.O.

Defendant

A Gentile
C.O.

Defendant

G Henderson
C.O.

Defendant

R Klinefelter
C.O.

Defendant

S. Marshall
C.O.

Defendant

- McNeil
C.O.

Defendant

- Murray
C.O.

Defendant

- Olsen
C.O.

Defendant

H Seinwerth
C.O.

Defendant

D D Brown
C.O.

Defendant

J Etheredge
C.O.

Defendant

T. Gutierrez
C.O.

Defendant

G King
C.O.

Defendant

- Knipp
C.O.

Defendant

R Kudlata
C.O.

Defendant

Milo Laguna
C.O.

Defendant

Cynthia Lincoln
C.O.

Defendant

V. Rendon
C.O.

Defendant

Eric Reyes
C.O.

Defendant

Richard Subia
C.O.

Defendant

C. D. Brown
C.O.

Defendant

M. Lattimore
C.O.

Defendant

Yulanda Mynhier
C.O.

Defendant

Frederick Danzinger
Psychiatrist

Defendant

T Emigh
Coordinator

Defendant

Thomas Hansen
Coordinator

Defendant

Earl Kanipe
Litigation Coordinator

Defendant

L B Reaves
Counselor

Defendant

Helen Stanley
Secretary

Defendant

Judith Vasquez
Social Worker

Defendant

Carl Michael Warvarovski

Doctor

Defendant

Patrick Boyd
Associate Wardens

Defendant

Scott Kernan
Associate Warden

Defendant

James Silva
Associate Warden

Defendant

Michael Knowles
Warden

Defendant

N. Grannis
Chief of Inmate Appeals Branch

Defendant

Kenneth Hurdle
Chief of Inmate Appeals Branch

Defendant

Linda Melching
Chief of Inmate Appeals

Defendant

Linda Rianda
Chief of Inmate Appeals Branch

Defendant

C Taylor
Classification Services Unit Rep.

Defendant

Domingo Uribe
Jr. Ombudsman

Defendant

Matthew Gray
Sr. Policy Consultant

Defendant

Robert Presley
Secretary CDC

Defendant

John Vasconcellos
Senator

Defendant

Steve White
Inspector General

Defendant

Linda Warren
C.O.

Date Filed	#	Docket Text
12/12/2005	1	COMPLAINT against all dfts filed by Eric Charles Rodney Knapp. (MAINTAIN ON PAPER)(Yin, K) Modified on 12/13/2005 (Yin, K). (Entered: 12/13/2005)
12/13/2005	2	PRISONER NEW CASE DOCUMENTS ISSUED; (Attachments: # 1 Consent Forms) (Yin, K) (Entered: 12/13/2005)
12/13/2005		SERVICE BY MAIL: 2 Prisoner New Case Documents for FCD served on Eric Charles Rodney Knapp. (Yin, K) (Entered: 12/13/2005)
12/14/2005	3	MOTION to PROCEED IN FORMA PAUPERIS by Eric Charles Rodney Knapp. (Caspar, M) (Entered: 12/15/2005)
12/21/2005	4	DECLINE to PROCEED BEFORE US MAGISTRATE JUDGE by Eric Charles Rodney Knapp. (Krueger, M) (Entered: 12/22/2005)
12/29/2005	5	TRANSFER ORDER signed by Judge Craig M. Kellison on 12/28/05. Case TRANSFERRED to USDC - Northern District of CA. Original file, certified copy of transfer order, and docket sheet sent. Court has not ruled on plaintiff's Motion to Proceed IFP or Request for Appointment of Counsel. CASE CLOSED (Marciel, M) (Entered: 12/29/2005)
12/29/2005	6	TRANSMITTAL of DOCUMENTS to USDC - Northern District of CA: original paper copy of Complaint, transfer letter, certified copy of Order, and certified copy of docket sheet. (Marciel, M) (Entered: 12/29/2005)
12/29/2005		SERVICE BY MAIL: 5 Transfer Order to Another District served on plaintiff Eric Charles Rodney Knapp and USDC - Northern District. (Marciel, M) (Entered: 12/29/2005)
01/09/2006	7	LETTER in RESPONSE by Eric Charles Rodney Knapp re 5 Order Transferring Case. (Donati, J) (Entered: 01/10/2006)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED

DEC 21 2005

ERIC CHARLES RODNEY KNAPP,
Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 2:05-CV-02520-FCD-CMK

CLERK OF THE COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

RODERICK Q. HICKMAN, ET AL.,
Defendant(s)/Respondents(s).

IMPORTANT
IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF
A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE
SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.

**CONSENT TO JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C. Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: _____ Signature: _____

Print Name: _____
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

**DECLINE OF JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: 12/15/05 Signature: Eric C.R. Knapp

Print Name: Eric C.R. Knapp
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

*If representing more than one party, counsel must indicate name of each party responding.

CERTIFICATION OF MAILING

Case Name: ERIC CHARLES RODNEY K'NAPP v. RODERICK Q. HICKMAN, et al.

Case No. : 2:05-CV-02520 FCD CMK (PC)

I, Eric Charles Rodney K'napp, "Plaintiff" in the above civil action, swear under penalty of perjury that by doing the following pursuant to the "prison mailbox" rule on 12/18/05, I mailed the accompanying document titled "Decline of Jurisdiction of [U.S.] Magistrate Judge":

1. Placed the original of said document inside an envelope addressed to the U.S. District Court for the Eastern District of California, 501 I Street, Suite 4-200, Sacramento, California, 95814;
2. Gave the above envelope to a prison guard in 4-Block on facility "B" at Salinas Valley State Prison in Monterey County, who then took possession of the envelope for processing pursuant to prison mail procedures.

Executed this 18th day of December, 2005, at Soledad, California.



ERIC CHARLES RODNEY K'NAPP
Plaintiff, In Pro Per

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Jack L. Wagner
Clerk

Office of the Clerk
501 "I" Street
Sacramento, CA 95814

Divisional Office
1130 "O" Street
Fresno, CA 93721

December 13, 2005

Case Number: 2:05-CV-02520-FCD-CMK

Case Title: ERIC CHARLES RODNEY KNAPP, vs. RODERICK Q. HICKMAN, ET AL.,

Dear Litigant,

You are hereby notified that the above case number has been assigned to your action. You are to include the complete case number on all documents sent to the court for filing in this case. Failure to do so results in delayed processing of your documents.

All matters in this action shall be sent to the following address until further notice:

Office of the Clerk
United States District Court
Eastern District of California
501 "I" Street, Suite 4-200
Sacramento, CA 95814

For timely processing of your pleadings or correspondence, please comply with our Local Rules of Court, in particular:

Local Rule 5-133 The court requires an original plus one copy of each document sent for filing. If you desire to receive a conformed copy for your records, you must send an original and two copies of your document and a pre-addressed postage-paid envelope for us to return your copy to you.

Local Rule 5-135 Once the defendant(s) have served a responsive pleading, you are under an ongoing duty to serve them with copies of all documents you submit to the court. A proof of service shall be attached to the original of any document lodged or filed with the court, showing the date, manner and place of service. A sample proof of service is attached.

Local Rule 7-130 Documents submitted to the court must be legible, on 8-½" x 11" paper, with writing on one (1) side of the page only. Each separate document must be stapled at the top left corner and pre-punched with two (2) holes centered 2 ¼" apart, ½" from the top edge of the page. Each page should be numbered consecutively at the bottom.

Local Rule 7-132 Every document submitted to the court must include your name, address and prisoner identification number in the upper left hand corner of the first page. The caption on the first page must include the title of this court, the title of the action, the case number assigned to this action (including all initials and letters that follow the number), and the title of your document. If you are pursuing more than one action in this court, you must submit a separate original document and the appropriate number of copies for each action in which you want the document filed.

Local Rule 6-142 A request for extension of time must state the reason an extension is needed. A request for extension of time should be filed before the deadline in question.

Local Rules 30-250, 33-250, 34-250 and 36-250 Discovery requests or responses should not be submitted to the court unless they are relevant and necessary to support or oppose a motion at issue before the court.

Local Rule 83-182 Each party appearing in propria persona is under a continuing duty to notify the Clerk and all other parties of any change of address.

Other Provisions:

Request for Case Status The court will notify you as soon as any action is taken in your case. Due to the large number of civil actions pending before the court, THE CLERK IS UNABLE TO RESPOND IN WRITING TO INDIVIDUAL INQUIRES REGARDING THE STATUS OF YOUR CASE. As long as you keep the court apprised of your current address, you will receive all court decisions which might affect the status of your case.

Copy Work The Clerk's Office does not provide copies of documents to parties. Copies of documents may be obtained from Attorney's Diversified Service (ADS) by writing to them at: 1424 21st Street, Sacramento, CA 95814, or by phoning 916-441-4396 or 916-441-4466. The court will provide copies of docket sheets at \$0.50 per page. **Note: In Forma Pauperis** status does not include the cost of copies.

Jack L. Wagner, Clerk

United States District Court

by: /s/ K. Yin
Deputy Clerk

The following is a sample Proof of Service. Pursuant to Rule 5 of the F.R.Cv.P. and Local Rule 5-135, each document filed after the court orders service in your case shall be served on opposing counsel and a proof of service attached to your document filed with the court.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

(Case Title) _____

Plaintiff or Petitioner

V.

Case Number: 2:99 - CV 99999 ABC DFG
(example case no.)

Defendant or Respondent

SAMPLE PROOF OF SERVICE

I hereby certify that on (Date) _____, I served a copy

of the attached (Title of Document Served and Filed) _____

by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said

envelope in the United States Mail at (Location of Mailing) _____

(List Name and Address of Each Defendant or Attorney Served)

I declare under penalty of perjury that the foregoing is true and correct.

(Name of Person Completing Service)

NOTICE OF AVAILABILITY OF A MAGISTRATE JUDGE

TO EXERCISE JURISDICTION AND APPEAL INSTRUCTIONS

You are hereby notified in accordance with 28 U.S.C §636(c), F.R.Civ.P.73 and Local Rule 73-305, the United States Magistrate Judges sitting in Sacramento and Fresno are available to exercise the court's case dispositive jurisdiction and to conduct any or all case despositive proceedings in this action, including motions to dismiss, motions for summary judgment, a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is however, permitted only if all parties voluntarily consent. You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's case dispositive jurisdiction from being exercised by a Magistrate Judge.

Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, for the Federal Circuit in the same manner as an appeal from any other judgment of a District Court.

Whether or not the parties consent to pursuant to 28 U.S.C. § 636(c) the assigned Magistrate Judge will hear all motions except those case dispositive motions set forth in 28 U.S.C. § 636(b)(1)(A).

A copy of the Form for "Consent to / Decline of Jurisdiction of United States Magistrate Judge" is attached hereto for pro per use and attorney information. This form is available in fillable .pdf format on the court's web site at www.caed.uscourts.gov for all attorney ECF filers. This form may be filed through CM/ECF or by pro se litigants at the appropriate Clerk's Office location.

Office of the Clerk
501 I Street, Room 4-200
Sacramento, CA 95814

Office of the Clerk
1130 "O" Street , Room 5000
Fresno, CA 93721

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERIC CHARLES RODNEY KNAPP,
Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 2:05-CV-02520-FCD-CMK

RODERICK Q. HICKMAN, ET AL.,
Defendant(s)/Respondents(s).

IMPORTANT

IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.

**CONSENT TO JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C. Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: _____ Signature: _____

Print Name: _____
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

**DECLINE OF JURISDICTION OF
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: _____ Signature: _____

Print Name: _____
() Plaintiff/Petitioner () Defendant/Respondent
() Counsel for * _____

**If representing more than one party, counsel must indicate name of each party responding.*

Eric C.R. K'napp (#J10618)
B4-209L, S.V.S.
Post Office Box 150
Soledad, CA 93960

C 06 0413

January 3, 2006

The Honorable Craig M. Kellison, U.S. Magistrate Judge
United States District Court (E.D. Cal.)
Attn: Office of the Clerk
501 I Street, Suite 4-200
Sacramento, California 95814-2322

FILED

JAN 23 2006

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED
JAN - 9 2006
JACK L. WAGNER, CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

(PR)

Re: K'napp v. Hickman et al., #CIV-05-209L

Dear U.S. District Court:

I just today received an Order dated 12/28/05 from this honorable Court which states that the action referenced above should have been filed in the U.S. District Court for the Northern District of California. The Order also states my claim "arose in Monterey County" and that "none of the defendants reside in this district."

However, my claim arose while I was incarcerated at the California State Prison in Amador County, also known as Mule Creek State Prison (please see the Complaint's § IV [Statement of Claim] at ¶¶ 1, 3-9, 27-30, etc.). The Monterey County address on the face of my Complaint in the above matter is merely where I am presently incarcerated, not where my claim arose.

Wherefore, not knowing a more appropriate means of drawing the Court's attention to the apparent misunderstanding pointed out above, I respectfully submit this letter to hopefully effect prompt rescission of the Court's 12/28/05 Order so that my action may proceed in the proper venue without undue delay preventing speedy resolution thereof.

Sincerely,

