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

ELLIE DUBY,

Petitioner,

No. CIV S-07-0804 GEB GGH P

vs.

STATE OF CALIFORNIA,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. This court will not rule on petitioner's request to proceed in forma pauperis.

Petitioner is incarcerated in Riverside County and was convicted in San Diego County. Riverside County is located in an area embraced by the United States District Court for the Central District, while San Diego County is encompassed within the area embraced by the United States District Court for the Southern District.

Pursuant to 28 U.S.C § 2241(d), courts in both the district of conviction and the district of confinement have concurrent jurisdiction over applications for habeas corpus filed by

1 state prisoners.¹ In the instant case, however, both petitioner's conviction and his place of
2 incarceration are located in areas not covered by this district, the Eastern District of California.
3 Because petitioner was not convicted in this district, and is not presently confined here, this court
4 does not have jurisdiction to entertain the application.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. This court has not ruled on petitioner's request to proceed in forma pauperis;

7 2. This matter is transferred to the United States District Court for the Southern

8 District of California. 28 U.S.C. § 2241(d); 28 U.S.C. § 1406(a).

9 DATED: 5/14/07

/s/ Gregory G. Hollows

10 _____
11 GREGORY G. HOLLOWES
12 UNITED STATES MAGISTRATE JUDGE

12 GGH:009/bb
13 duby0804.108

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25 ¹ When there is concurrent jurisdiction, see Braden v. 30th Judicial Circuit Court, 410 U.S.
26 484 (1973), because any and all witnesses and evidence necessary for the resolution of petitioner's
application are more readily available in the county of conviction, id. at 499 n.15; 28 U.S.C.
§ 2241(d), the matter is transferred to such jurisdiction.