

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

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

DAVID SHAFFER,

Petitioner,

No. CIV S-09-1543 DAD P

vs.

STATE OF CALIFORNIA, et al.,

Respondents.

ORDER

_____ /

On June 4, 2009, petitioner, a state prisoner proceeding pro se, filed a letter with this court in which he appeared to ask for copies of his state and federal petitions for writ of habeas corpus. On June 15, 2009, the court advised petitioner that he did not have any habeas corpus actions pending in this court. The court also advised petitioner that in order to commence such an action, he needed to file a petition for writ of habeas corpus as required by Rule 3 of the Rules Governing Section 2254 cases, and must either pay the required filing fee or file an application requesting leave to proceed in forma pauperis. See 28 U.S.C. §§ 1914(a), 1915(a). Petitioner has since filed with this court what appears to be a copy of his petition for writ of habeas corpus filed in the Santa Cruz County Superior Court and a copy of his petition for writ of habeas corpus filed with the California Court of Appeal for the Sixth Appellate District. He has also filed an application requesting leave to proceed in forma pauperis and several other motions.

1 Based on petitioner's recent filings, it appears that petitioner is attempting to
2 challenge a 2007 judgment of conviction entered by the Santa Cruz County Superior Court.
3 Petitioner is presently incarcerated at California Correctional Institution in Tehachapi, California.

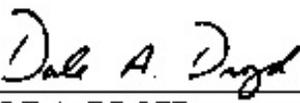
4 While both the Fresno Division of this Court and the United States District Court
5 in the district where petitioner was convicted have jurisdiction over petitioner's application for a
6 writ of habeas corpus, see Braden v. 30th Judicial Circuit Court, 410 U.S. 484 (1973), any and all
7 witnesses and evidence necessary for the resolution of petitioner's application are more readily
8 available in Santa Cruz County. Id. at 499 n.15; 28 U.S.C. § 2241(d).¹

9 Accordingly, in the furtherance of justice, IT IS HEREBY ORDERED that:

10 1. This court has not ruled on petitioner's application to proceed in forma
11 pauperis; and

12 2. This matter is transferred to the United States District Court for the Northern
13 District of California.

14 DATED: August 27, 2009.

15
16 
17 _____
18 DALE A. DROZD
19 UNITED STATES MAGISTRATE JUDGE

17 DAD:9
18 shaf1543.108

19
20
21
22
23 _____
24 ¹ Petitioner is advised that the exhaustion of state court remedies is a prerequisite to the
25 granting of a petition for writ of habeas corpus. See 28 U.S.C. § 2254(b)(1). A petitioner
26 satisfies the exhaustion requirement by fairly presenting to the highest state court all federal
claims before presenting them to the federal court. See Duncan v. Henry, 513 U.S. 364, 365
(1995); Picard v. Connor, 404 U.S. 270, 276 (1971); Crotts v. Smith, 73 F.3d 861, 865 (9th Cir.
1996); Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir. 1986).