(HC) McElroy v. Martel

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

MARVIN McELROY,

No C-09-2584 VRW (PR)

ORDER OF TRANSFER

Petitioner,

v

MICHAEL MARTEL, Warden,

Respondent.

Petitioner seeks federal habeas review of the execution of a sentence imposed by the Alameda County superior court, which lies in this judicial district. See 28 USC § 84(a). Petitioner is incarcerated at Mule Creek State Prison in the County of Amador, which lies in the Eastern District of California. See id § 84(b).

Venue is proper in a habeas action in either the district of conviction or the district of confinement, id § 2241(d); the district of confinement, however, is the preferable forum to review the execution of a sentence. See Habeas L R 2254-3(a); <u>Dunne v Henman</u>, 875 F2d 244, 249 (9th Cir 1989); cf <u>Laue v Nelson</u>, 279 F Supp 265, 266 (ND Cal 1968) (district of conviction preferable forum

to review conviction).

Because the County of Amador lies in the Eastern District of California, pursuant to 28 USC § 1404(a) and Habeas Local Rule 2254-3(b) and in the interest of justice the court orders this petition TRANSFERRED to the United States District Court for the Eastern District of California.

The clerk shall transfer this matter and terminate all pending motions as moot.

IT IS SO ORDERED.

VAUGHN R WALKER

United States District Chief Judge