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

MELVIN DUKES,

Plaintiff,

No. 2:09-cv-2294-JFM (PC)

vs.

CAPTAIN D. MANTEL, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, has filed a civil action on the form for filing a petition for writ of habeas corpus in a California state court. Upon review of the petition, the court construes this action as a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has neither paid the filing fee of \$350.00 for a civil rights action nor filed an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

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).

1 Plaintiff's claims concern the conditions of his confinement at Salinas Valley
2 State Prison in Monterey County, which is in the Northern District of California. Although it is
3 not entirely clear, it appears that none of the defendants reside in this district. As noted above,
4 the claims arose in Monterey County, which is in the Northern District of California. Therefore,
5 plaintiff's claim should have been filed in the United States District Court for the Northern
6 District of California. In the interest of justice, a federal court may transfer a complaint filed in
7 the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d
8 918, 932 (D.C. Cir. 1974).

9 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the
10 United States District Court for the Northern District of California.

11 DATED: October 8, 2009.

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14 UNITED STATES MAGISTRATE JUDGE

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