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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 TERRENCE LEE BROWN,

1:09-cv-01530-BAK-SMS (HC)

12 Petitioner,

13 vs.

ORDER TRANSFERRING CASE TO
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
CALIFORNIA, SACRAMENTO DIVISION

14 BUREAU OF PRISONS, et al.,

15 Respondents.
16 _____ /

17 Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28
18 U.S.C. § 2254, in which he challenges a decision reached by the Board of Prison Terms regarding his
19 suitability for parole. Petitioner has not paid the \$5.00 filing fee or submitted an application to
20 proceed in forma pauperis for this action.

21 The federal venue statute requires that a civil action, other than one based on diversity
22 jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants
23 reside in the same state, (2) a judicial district in which a substantial part of the events or omissions
24 giving rise to the claim occurred, or a substantial part of the property that is the subject of the action
25 is situated, or (3) a judicial district in which any defendant may be found, if there is no district in
26 which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

27 In a habeas matter, venue is proper in either the district of conviction or the district of
28 confinement. 28 U.S.C. § 2241(d). Where a petitioner attacks the execution of his sentence, the

1 proper forum in which to review such a claim is the district of confinement. See Dunn v. Henman,
2 875 F.2d 244, 249 (9th Cir. 1989) (stating, in a 28 U.S.C. § 2241 action, that "[t]he proper forum to
3 challenge the execution of a sentence is the district where the prisoner is confined.").

4 In this case, petitioner was sentenced in Fresno County Superior Court, which is located
5 within the Eastern District of California. He is currently incarcerated at High Desert State Prison, in
6 Lassen County, which lies within the Eastern District of California, Sacramento Division. Because
7 the instant petition is premised on events relating to Petitioner's parole proceedings, the court
8 construes it as a challenge to the execution of petitioner's sentence, as opposed to an attack on the
9 conviction itself. Thus, this matter should be addressed in the forum where petitioner is confined.
10 Therefore, the petition should have been filed in the United States District Court for the Eastern
11 District of California, Division . In the interest of justice, a federal court may transfer a case filed in
12 the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d
13 918, 932 (D.C. Cir. 1974).

14 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
15 District Court for the Eastern District of California, Sacramento. All future filings shall reference
16 the new Sacramento case number assigned and shall be filed at:

17 United States District Court
18 Eastern District of California
19 Sacramento Division
501 "I" Street, Suite 4-200
Sacramento, CA 95814

20 IT IS SO ORDERED.

21 **Dated: September 8, 2009**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE