

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TERRENCE BROWNLEE,

1:09-cv-00668-AWI-DLB (HC)

Petitioner,

ORDER OF TRANSFER

v.

TOM FEILKEN,

Respondent.

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

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 the 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).

In a habeas matter, venue is proper in either the district of conviction or the district of confinement. 28 U.S.C. § 2241(d). Where a petitioner attacks the execution of his sentence, the proper forum in which to review such a claim is the district of confinement. See *Dunn v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989) (stating, in a 28 U.S.C. § 2241 action, that “[t]he proper forum to challenge the execution of a sentence is the district where the prisoner is

1 confined.”).

2 In this case, Petitioner was sentenced in Fresno County Superior Court, which is located
3 within the Eastern District of California. Petitioner is currently incarcerated at High Desert State
4 Prison, in Lassen County, which lies within the Eastern District of California, Sacramento
5 Division. In addition, the instant petition is premised on events relating to Petitioner’s parole
6 proceeding which took place at Folsom State Prison-also within the jurisdiction of the Eastern
7 District of California, Sacramento Division. Accordingly, this matter should be addressed in the
8 forum where petitioner is confined. Therefore, the petition should have been filed in the United
9 States District Court for the Eastern District of California, Sacramento Division. In the interest of
10 justice, a federal court may transfer a case filed in the wrong district to the correct district. See
11 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

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

15 United States District Court
16 Eastern District of California
17 Sacramento Division
501 “I” Street, Suite 4-200
Sacramento, CA 95814

18 IT IS SO ORDERED.

19 **Dated: April 15, 2010**

20 **/s/ Dennis L. Beck**
UNITED STATES MAGISTRATE JUDGE