

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

ERNESTO ANTONIO MEJIA,

Petitioner, No. 2:10-cv-0978 KJN H

VS.

JOHNNY WILLIAMS, JR.,

**Respondent.** **ORDER**

Petitioner, a state prisoner proceeding without counsel, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis and a request for appointment of counsel. Petitioner is incarcerated at the Service Processing Center in El Centro, Imperial County, California, and challenges a conviction entered by the Kern County Superior Court. Imperial County is located within the United States District Court for the Southern District of California, while Kern County is located within the Fresno Division of the United States District Court for the Eastern District of California. See Local Rule 120(d).

Pursuant to 28 U.S.C. § 2242(d), an application for a writ of habeas corpus may be filed in the district court wherein petitioner is presently in custody or in the district court

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1 wherein petitioner was convicted and sentenced.<sup>1</sup> An application for a writ of habeas corpus  
2 challenging conviction is most appropriately heard in the federal district wherein petitioner was  
3 convicted and sentenced. See, e.g., Laue v. Nelson, 279 F. Supp. 265 (N.D. Cal. 1968).

4           This action should therefore have been filed in the Fresno, rather than the  
5 Sacramento, Division of the United States District Court for the Eastern District of California.  
6 See Local Rule 120(d). Pursuant to Local Rule 120(f), a civil action which has not been  
7 commenced in the proper division of a court may, on the court's own motion, be transferred to  
8 the proper division. This action will therefore be transferred to the Fresno Division. This court  
9 has not ruled on petitioner's request to proceed in forma pauperis or petitioner's request for  
10 counsel.

11           Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

12           1. This action is transferred to the Fresno Division of the United States District  
13 Court for the Eastern District of California; and

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22           <sup>1</sup> 28 U.S.C. § 2241(d) provides: "Where an application for a writ of habeas corpus is  
23 made by a person in custody under the judgment and sentence of a State court of a State which  
24 contains two or more Federal judicial districts, the application may be filed in the district court  
25 for the district wherein such person is in custody or in the district court for the district within  
26 which the State court was held which convicted and sentenced him and each of such district  
courts shall have concurrent jurisdiction to entertain the application. The district court for the  
district wherein such an application is filed in the exercise of its discretion and in furtherance of  
justice may transfer the application to the other district court for hearing and determination."

1                   2. All future filings shall reference the newly assigned Fresno case number and  
2 shall be filed at:

3                   United States District Court  
4                   Eastern District of California  
5                   2500 Tulare Street  
6                   Fresno, CA 93721

6 DATED: April 29, 2010

7                     
8                   KENDALL J. NEWMAN  
9                   UNITED STATES MAGISTRATE JUDGE

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