

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 MELVIN DUKES,

11 Plaintiff,

No. CIV S-10-1726 KJM \P

12 vs.

13 WARDEN HEDGEPEETH,

14 Defendant.

ORDER

15 _____/
16 Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant
17 to 42 U.S.C. § 1983.¹ The federal venue statute requires that a civil action, other than one based
18 on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides,
19 if all defendants reside in the same State, (2) a judicial district in which a substantial part of the
20 events or omissions giving rise to the claim occurred, or a substantial part of property that is the
21 subject of the action is situated, or (3) a judicial district in which any defendant may be found, if
22 there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

23 /////
24 _____

25 ¹ Plaintiff has filed the action on the form for a petition for a writ of habeas corpus, but
26 his claims appear to involve the conditions of his confinement rather than the legality of that
confinement.

1 In this case, the defendants are located and the claims arose in Monterey County,
2 which is in the Northern District of California. Therefore, plaintiff's claim should have been
3 filed in the United States District Court for the Northern District of California. In the interest of
4 justice, a federal court may transfer a complaint filed in the wrong district to the correct district.
5 See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

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

8 DATED: July 22, 2010.

9 
10 U.S. MAGISTRATE JUDGE
11

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
2
duke1726.21a.