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

DAVID BELTRAN,

1:10-cv-01623-JLT (HC)

Petitioner,

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

vs.

BOARD OF PAROLE HEARINGS

Respondent.

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254, together with a request 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 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).

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

7 In this case, petitioner is challenging the denial of parole suitability by the Board of  
8 Parole Hearings; therefore, he is challenging the execution of his sentence, not his conviction.  
9 Hence, the petition should have been filed in the forum where Petitioner is presently confined.  
10 Petitioner is presently confined at Mule Creek State Prison, which is located in Ione, Amador  
11 County, California, which lies within the Sacramento Division of this Court. Thus, the petition  
12 should have been filed in the Sacramento Division of the United States District Court for the  
13 Eastern District of California. Pursuant to Local Rule 120(f), a civil action which has not been  
14 commenced in the proper division of a court may, on the court’s own motion, be transferred to  
15 the proper division of the court. Therefore, this action will be transferred to the Sacramento  
16 Division of this Court.

17 Good cause appearing, IT IS HEREBY ORDERED that:

18 1. This action is transferred to the United States District Court for the Eastern District of  
19 California sitting in Sacramento; and,

20 2. All future filings shall reference the new Sacramento case number assigned and shall  
21 be filed at:

22 United States District Court  
23 Eastern District of California  
24 501 “I” Street, Suite 4-200  
Sacramento, CA 95814

25 IT IS SO ORDERED.

26 Dated: September 14, 2010

/s/ Jennifer L. Thurston

UNITED STATES MAGISTRATE JUDGE

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