

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DARRYL LEE BRISCOE

No. C 12-6279 SBA (PR)

Petitioner,

ORDER OF TRANSFER

v.

E.. VALENZUELA, Warden,

Respondent.

Petitioner, a state prisoner incarcerated at the California Men's Colony in San Luis Obispo, California, files a petition for a writ of habeas corpus. He also moves for leave to proceed in forma pauperis (IFP).


Federal statute allows "the Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2241(a). A federal petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court is properly filed in either the district of confinement or the district of conviction. Id. § 2241(d). Where a case is filed in the wrong venue, the district court has the discretion to transfer it to the proper federal court "in the interest of justice." See 28 U.S.C. § 1406(a).

Here, Petitioner challenges a conviction and sentence incurred in the Fairfield Superior Court, which is in the venue of the Eastern District of California. See 28 U.S.C. § 84. Accordingly, that is the proper venue for this action.

Pursuant to 28 U.S.C. § 1406(a) and Habeas L.R. 2254-3(b), and in the interest of justice, the Clerk of the Court is ordered to TRANSFER this action forthwith to the United States District Court for the Eastern District of California. All remaining motions are TERMINATED on this Court's docket as no longer pending in this district.

IT IS SO ORDERED.

DATED: 6/12/13


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DARRYL LEE BRISCOE,

Plaintiff,

v.

E VALENZUELA et al,

Defendant.

Case Number: CV12-06279 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 12, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Darryl Lee Briscoe H-67006
California Men's Colony-East
P.O. Box 8101
Highway One
San Luis Obispo, CA 93409-8101

Dated: June 12, 2013

Richard W. Wieking, Clerk
By: Lisa Clark, Deputy Clerk