

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICK D. KELLEY,
Petitioner,

v.

CDCR ESP/SAC, et al.,
Respondents.

Case No. 16-05244 EJD (PR)
ORDER OF TRANSFER

Petitioner, a state inmate currently confined at a prison in Corcoran which lies within Kings County, filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In the petition, Petitioner challenges the actions of prison officials in connection with a Rules Violation Report (“RVR”) issued while he was incarcerated at California State Prison – Sacramento. He requests that the officers be reprimanded and indicates that he is suing them for assaulting him. (Pet. at 3.)

If Petitioner is seeking to overturn the underlying RVR and any forfeiture of good-time credits, then the district of confinement is the preferable forum. See Habeas L.R. 2254-3(b)(2); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989) (a petition directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credits claims, the district of confinement is the preferable forum). Petitioner is confined in Kings

1 County, which lies within the venue of the Eastern District of California. See 28 U.S.C. §
2 84(b). Therefore, venue properly lies in that district and not in this one for this habeas
3 action. See 28 U.S.C. § 1391(b).

4 If the action should properly be filed as a civil rights complaint because Petitioner
5 states that he is “suing these officers” for their alleged assault and is therefore challenging
6 a condition of confinement under 42 U.S.C. § 1983 , venue also properly lies in the Eastern
7 District because defendants reside in, and the acts complained of occurred in, Sacramento
8 County, which lies within the venue of the Eastern District of California, see 28 U.S.C. §
9 84(b), venue properly lies in that district and not in this one. See 28 U.S.C. § 1391(b).

10 Accordingly, this case is TRANSFERRED to the United States District Court for
11 the Eastern District of California. See 28 U.S.C. § 1406(a).

12 The Clerk shall terminate all pending motions and transfer the entire file to the
13 Eastern District of California.

14 **IT IS SO ORDERED.**

15 **Dated:** 1/17/2017


EDWARD J. DÁVILA
United States District Judge

16
17
18
19
20
21
22
23
24
25 Order of Transfer
PRO-SE\EJD\HC.16\05244Kelley_transfer(ED)

26

27

28