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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 EDDIE RODRIGUEZ,	}	No. C 07-1201 JSW (PR)
9 Plaintiff,	}	
10 vs.	}	ORDER OF TRANSFER
11 L. C. HENSE, Warden, et al,	}	
12 Defendants.	}	

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14 Plaintiff is a state prisoner currently incarcerated at the Correctional Training
15 Facility located in Soledad, California. He filed this civil rights action challenging the
16 actions of prison officials at North Kern State Prison, in Delano, California, in failing to
17 protect him from an assault by another prisoner. North Kern State Prison is located in
18 Kern County, within the venue of the United States District Court for the Eastern District
19 of California.

20 When jurisdiction is not founded solely on diversity, venue is proper in the
21 district in which (1) any defendant resides, if all of the defendants reside in the same
22 state, (2) the district in which a substantial part of the events or omissions giving rise to
23 the claim occurred, or a substantial part of property that is the subject of the action is
24 situated, or (3) a judicial district in which any defendant may be found, if there is no
25 district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a
26 case is filed in the wrong venue, the district court has the discretion either to dismiss the
27 case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. §
28 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet
 filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790

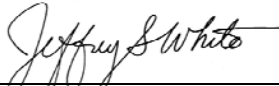
1 F.2d 1486, 1488 (9th Cir. 1986).

2 Plaintiff complains about conditions of confinement at a prison located in Kern
3 County, within the venue of the Eastern District of California. *See* 28 U.S.C. § 84.

4 Therefore, the Court will transfer this action to the United States District Court for the
5 Eastern District of California. Accordingly, IT IS ORDERED in the interest of justice,
6 and pursuant to 28 U.S.C. § 1406(a), that this action be TRANSFERRED to the United
7 States District Court for the Eastern District of California. The Clerk of the Court shall
8 transfer this matter forthwith.

9 IT IS SO ORDERED.

10 DATED: March 7, 2007

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13 JEFFREY S. WHITE
14 United States District Judge
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