

United States District Court  
For the Northern District of California

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

MARCUS MARCELL McCOWEN	)	C 08-5487 MMC(PR)
Petitioner,	)	<b>ORDER OF TRANSFER</b>
vs.	)	<b>(Docket No. 3)</b>
PEOPLE,	)	
Respondent.	)	

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On December 8, 2008, petitioner, a California prisoner confined at the California Substance Abuse Treatment Facility and State Prison in Corcoran, California, and proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges the validity of his conviction, obtained in the Superior Court of Los Angeles County, for possession of a firearm by a felon.

Pursuant to 28 U.S.C. § 2241(d), venue for a habeas action is proper in either the district of confinement or the district of conviction. See 28 U.S.C. § 2241(d). Where the petition challenges a conviction or sentence, however, federal courts in California traditionally have chosen to hear such petition in the district of conviction. See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968); see also Habeas L.R. 2254-3(a)(1). Here, petitioner neither is confined nor was convicted in the Northern District. Rather, petitioner is confined in Kings County,


1 which is located within the venue of the Eastern District of California, and was convicted in  
2 Los Angeles County, which is located within the venue of the Central District of California.  
3 See 28 U.S.C. § 84(b), (c). Consequently, venue is not proper in the Northern District.

4 When venue is improper, the district court has the discretion to either dismiss the  
5 action or transfer it “in the interest of justice.” See 28 U.S.C. § 1406(a). Accordingly, in the  
6 interest of justice, the above-titled action is hereby TRANSFERRED to the district of  
7 conviction, the United States District Court for the Central District of California. In light of  
8 the transfer, this Court will defer to the Central District with respect to petitioner’s “Request  
9 for Appointment of Counsel and Declaration of Indigency.”

10 This order terminates Docket No. 3.

11 IT IS SO ORDERED.

12 DATED: December 19, 2008

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14 MAXINE M. CHESNEY  
United States District Judge

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