

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

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

NOKKUWA K. ERVIN,

Petitioner,

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al,

Respondents.

) No. C 10-4132 JSW (PR)

) **ORDER OF TRANSFER**

) (Docket No. 2)

Petitioner is a state prisoner currently incarcerated at Kern Valley State Prison, located in Delano, California, within the venue of the United States District Court for the Eastern District of California, regarding the conditions of his confinement. He has also filed a motion to proceed *in forma pauperis* (docket no. 2).


A petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court of a state which contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. *See* 28 U.S.C. § 2241(d). Each of such districts shall have concurrent jurisdiction to entertain the petition; however, the district court for the district where the petition is filed may transfer the petition to the other district in the furtherance of justice. *See id.* However, if the petition is 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. *See* Habeas L.R. 2254-3(a); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

Petitioner’s claims are directed to the execution of sentence, in that they involve

1 the conditions of his confinement. Therefore, this Court will transfer this action to the
2 United States District Court for the Eastern District of California. Accordingly, IT IS
3 ORDERED in the interest of justice, and pursuant to 28 U.S.C. § 1406(a), that this action
4 be TRANSFERRED to the United States District Court for the Eastern District of
5 California. In light of the transfer, this Court will not resolve Petitioner's pending
6 motion (docket no. 2). The Clerk of the Court shall transfer this matter forthwith.

7 IT IS SO ORDERED.

8 DATED: October 5, 2010

9 
10 _____
11 JEFFREY S. WHITE
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 NOKKUWA K ERVIN,
6
7 Plaintiff,

Case Number: CV10-04132 JSW

CERTIFICATE OF SERVICE

8 v.


9 CALIFORNIA DEPARTMENT OF
CORRECTIONS et al,
10
11 Defendant.

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

14 That on October 5, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
17 receptacle located in the Clerk's office.

18 Nokkuwa K. Ervin
19 Kern Valley State Prison
20 J41091
P.O. Box 5107
93216, CA

21 Dated: October 5, 2010


22 Richard W. Wieking, Clerk
23 By: Jennifer Ottolini, Deputy Clerk
24
25
26
27
28