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

FRANK J. FERNANDEZ, D-61222,)	
)	
Petitioner,)	No. C 11-4264 CRB (PR)
)	
vs.)	ORDER OF TRANSFER
)	
G. D. LEWIS, Warden,)	(Docket # 3)
)	
Respondent.)	
)	

Frank J. Fernandez, a prisoner at Pelican Bay State Prison, seeks a writ of habeas corpus under 28 U.S.C. § 2254 challenging a conviction from Riverside County Superior Court. Fernandez specifically claims that the state has breached the plea agreement upon which the conviction is based and that he received ineffective assistance of counsel during the plea agreement proceedings.

Venue is proper in a habeas action in either the district of confinement or the district of conviction, 28 U.S.C. § 2241(d); however, petitions challenging a conviction preferably are heard in the district of conviction, see Habeas L.R. 2254-3(a); Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993), and petitions challenging the execution of a sentence preferably are heard in the district of confinement, see Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989). Here, although Fernandez suggests that his sentence is being executed in a unlawful manner, the court finds that the petition primarily challenges the validity of the underlying conviction. Consequently, the district of conviction is the preferable forum to review Fernandez's petition.

1 Because the County of Riverside lies in the Central District of California,
2 Eastern Division, 28 U.S.C. § 84(c)(1), the court ORDERS that pursuant to 28 U.S.C. §
3 1404(a) and Habeas Local Rule 2254-3(b), and in the interest of justice, this petition be
4 TRANSFERRED to the United States District Court for the Central District of
5 California, Eastern Division.

6 The clerk shall transfer this matter and terminate all pending motions as moot.

7 SO ORDERED.

8 DATED: Sept. 1, 2011



CHARLES R. BREYER
United States District Judge