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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN GIPSON,
Petitioner,

v.

JERRY BROWN,
Respondent.

Case No. [15-cv-03475-VC](#) (PR)

ORDER OF TRANSFER

John Gipson has filed a form habeas petition under 28 U.S.C. § 2241. Gipson is being held in Coalinga State Hospital in Coalinga, California, under California’s Sexual Violent Predator Act (“SVPA”). *See* Cal. Welf. & Inst. Code §§ 6600, *et seq.* He is currently awaiting trial to determine whether he is a sexually violent predator subject to civil commitment under the SVPA. In his petition, he argues that the California Department of State Hospitals is violating his double jeopardy rights by using certain standards, procedures, and assessment tools to determine if he is a sexually violent predator. He also argues that abstention is not appropriate.

Section 2241 is the proper basis for the petition because Gipson is a pretrial detainee challenging the constitutionality of his confinement. *See Hoyle v. Ada County*, 501 F.3d 1053, 1058 (9th Cir. 2007). Although this court may have jurisdiction to hear a petition brought under Section 2241, *see Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 494-95 (1973), *Braden* also makes clear that "venue considerations may, and frequently will, argue in favor of adjudication of the habeas claim in the jurisdiction where the habeas petitioner is confined." *Chatman-Bey v. Thornburgh*, 864 F.2d 804, 814 (D.C. Cir. 1988). The preferable forum for a Section 2241 habeas petition is the district of confinement. *See McCoy v. United States Bd. of Parole*, 537 F.2d 962, 966 (8th Cir. 1976); *see also Dunne v. Henman*, 875 F.2d 244, 249-50 (9th

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Cir. 1989) (suggesting that, even where district court has personal jurisdiction over custodian, preferred forum for 2241 petition is district of confinement).

Gipson's commitment proceedings are in Alameda County, which is in this district, and he is confined in Fresno County, which is in the Eastern District of California. *See* 28 U.S.C. § 84. Pursuant to 28 U.S.C. § 1404(a) and Habeas L.R. 2254-3(b), and in the interests of justice, this petition is TRANSFERRED to the United States District Court for the Eastern District of California. Ruling on the request to proceed in forma pauperis will be deferred to the Eastern District.

The clerk shall transfer this matter forthwith.

IT IS SO ORDERED.

Dated: October 1, 2015



VINCE CHHABRIA
United States District Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN GIPSON,
Plaintiff,

v.

JERRY BROWN,
Defendant.

Case No. [15-cv-03475-VC](#)

CERTIFICATE OF SERVICE


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

That on October 1, 2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John Gipson ID: 1446-2
Coalinga State Hospital
P.O. Box 5003
Coalinga, CA 93210-5003

Dated: October 1, 2015

Susan Y. Soong
Clerk, United States District Court

By: 
Kristen Melen, Deputy Clerk to the
Honorable VINCE CHHABRIA