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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GERELL LEE WHATLEY,
Plaintiff,
v.
DEBBIE ASCUNCION,
Defendant.

Case No. [17-cv-03709-JSC](#)

ORDER OF TRANSFER

Dkt. Nos. 2, 3

Petitioner, a California prisoner proceeding pro se, filed this petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition challenges the validity of a criminal judgment from San Joaquin County Superior Court.

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.* Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. *See Dannenberg v. Ingle*, 831 F. Supp. 767, 768 (N.D. Cal. 1993); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968).

As Petitioner challenges the validity of his conviction, the proper venue for his petition is the district in which he was convicted. San Joaquin County is located within the venue of the Eastern District of California. *See* 28 U.S.C. § 84. Accordingly, in the interest of justice, this case is TRANSFERRED to the United States District Court for the Eastern District of California. In

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light of this transfer, ruling on Petitioner’s application to proceed in forma pauperis and motion for a stay and abeyance are deferred to the Eastern District.

The Clerk shall terminate these motions from this Court’s docket (ECF Nos. 2, 3), and shall transfer this matter forthwith.

IT IS SO ORDERED.

Dated: July 13, 2017


JACQUELINE SCOTT CORLEY
United States Magistrate Judge

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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 July 13, 2017, 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.

Gerell Lee Whatley ID: AD-0584
Los Angeles County State Prison
44750 60th Street W
Box 8457
Lancaster, CA 93539

Dated: July 13, 2017

Susan Y. Soong
Clerk, United States District Court

By: 
Ada Means, Deputy Clerk to the
Honorable JACQUELINE SCOTT CORLEY