

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

3
4 DUANE AGUERO,

No. C 08-01883 CW (PR)

5 Petitioner,

ORDER OF TRANSFER

6 v.

7 STATE OF CALIFORNIA DEPARTMENT
8 OF CORRECTIONS,

9 Respondent.
_____ /

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11 Petitioner, a state prisoner, has filed a pro se petition for
12 a writ of habeas corpus in which he challenges the execution of his
13 sentence. He seeks leave to proceed in forma pauperis (IFP).

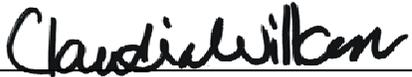
14 A petition for a writ of habeas corpus filed by a state
15 prisoner in a State that contains two or more federal judicial
16 districts may be filed in either the district of confinement or the
17 district of conviction. See 28 U.S.C. § 2241(d). The district
18 court where the petition is filed, however, may transfer the
19 petition to the other district in the furtherance of justice. See
20 id. Federal courts in California traditionally have chosen to hear
21 petitions challenging a conviction or sentence in the district of
22 conviction. See Dannenberq v. Ingle, 831 F. Supp. 767, 767 (N.D.
23 Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968).
24 But if a habeas petition is directed to the manner in which a
25 sentence is being executed, e.g., if it involves parole or time
26 credit claims, the district of confinement is the preferable forum.
27 See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244, 249 (9th
28 Cir. 1989).

1 Petitioner is incarcerated at Deuel Vocational Institution,
2 which lies within the venue of the Eastern District of California.
3 See 28 U.S.C. § 84. Because Petitioner challenges the execution of
4 his sentence, the Court hereby ORDERS that pursuant to 28 U.S.C.
5 § 1404(a) and Habeas L.R. 2254-3(b), and in the interests of
6 justice, this petition be TRANSFERRED to the United States District
7 Court for the Eastern District of California.

8 Petitioner's IFP application is TERMINATED as moot.

9 IT IS SO ORDERED.

10 Dated: 10/6/08



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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

4 DUANE AGUERO,

5 Plaintiff,

6 v.

7 STATE OF CALIFORNIA et al,

8 Defendant.

Case Number: CV08-01883 CW

CERTIFICATE OF SERVICE

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

11 That on October 6, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Duane Aguero P38260
16 Deul Vocational Institution JW124L
17 P.O. Box 600
18 Tracy, CA 95378-0600

19 Dated: October 6, 2008

20 Richard W. Wieking, Clerk
21 By: Sheilah Cahill, Deputy Clerk
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United States District Court
For the Northern District of California