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

RICKY R. HURT,

No. C 08-02416 SBA (PR)

Petitioner,

**ORDER OF TRANSFER**

v.

M.S. EVANS, Warden,

Respondent.

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Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus. In an Order dated October 27, 2008, the Court granted Petitioner leave to proceed in forma pauperis status and issued an Order to Show Cause.

Before the Court is Respondent's Motion to Transfer Venue to the District of Conviction. Respondent also asks the Court to vacate the Order to Show Cause.

Federal statute allows "the Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2241(a). A federal petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a State court is properly filed in either the district of confinement or the district of conviction. Id. § 2241(d). Where a case is filed in the wrong venue, the district court has the discretion to transfer it to the proper federal court "in the interest of justice." See 28 U.S.C. § 1406(a).

Here, Petitioner challenges a conviction and sentence incurred in the Los Angeles County Superior Court, which is in the venue of the Western Division of the Central District of California.

1 See 28 U.S.C. § 84. Accordingly, that is the proper venue for this action.

2 Pursuant to 28 U.S.C. § 1406(a) and Habeas L.R. 2254-3(b), and in the interest of justice, the  
3 Clerk of the Court is ordered to TRANSFER this action forthwith to the Western Division of the  
4 United States District Court for the Central District of California.

5 Accordingly, Respondent's Motion to Transfer Venue to the District of Conviction is  
6 GRANTED. However, the Court DENIES Respondent's request to vacate its October 27, 2008  
7 Order to Show Cause. All proceedings in this action will be stayed pending the Central District  
8 court's review of this action after it has been transferred.

9 This Order terminates Docket no. 12. All remaining motions are TERMINATED on this  
10 Court's docket as no longer pending in this district.

11 IT IS SO ORDERED.

12 DATED: 12/8/08

  
SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT JUDGE

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

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6 RICKY R. HURT,

Case Number: CV08-02416 SBA

7 Plaintiff,

**CERTIFICATE OF SERVICE**

8 v.

9 M.S. EVANS et al,

10 Defendant.  
\_\_\_\_\_/

11  
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,  
Northern District of California.

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

17 Ricky Ranay Hurt E-48858  
18 Salinas Valley State Prison  
19 P.O. Box 1050  
20 Soledad, CA 93960-1050

21 Dated: December 11, 2008

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk