

United States District Court
For the Northern District of California

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

RAFAEL LOPEZ,

No. C 08-03155 SBA (PR)

Petitioner,

ORDER OF TRANSFER

v.

M. MARTEL, Warden,

Respondent.

Petitioner, a state prisoner currently incarcerated at Mule Creek State Prison (MCSP), filed this habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging prison discipline imposed by various prison facilities including: Deuel Vocational Institution; California State Prison - Sacramento; California Correctional Institution; Calipatria State Prison; and California Substance Abuse Treatment Facility and State Prison. He has filed an application to proceed in forma pauperis (IFP).

A petition for a writ of habeas corpus filed by a state prisoner in a State that 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). The district court where the petition is filed, however, 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, 767 (N.D. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of

1 confinement is the preferable forum. See Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d 244,
2 249 (9th Cir. 1989).

3 Petitioner, who is challenging prison disciplinary hearings affecting his confinement, is
4 currently incarcerated at MCSP, which lies within the venue of the Eastern District of California.
5 See 28 U.S.C. § 84. Accordingly, the Court hereby ORDERS that pursuant to 28 U.S.C. § 1404(a)
6 and Habeas L.R. 2254-3(b), and in the interests of justice, this petition be TRANSFERRED to the
7 United States District Court for the Eastern District of California.

8 Petitioner's IFP application is TERMINATED as moot.

9 IT IS SO ORDERED.

10 DATED: 10/20/08


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

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

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6 RAFAEL LOPEZ,
7 Plaintiff,

Case Number: CV08-03155 SBA

CERTIFICATE OF SERVICE

8 v.

9 MARTEL 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 October 22, 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
in the Clerk's office.

16
17 Rafael L.R. Lopez D-00623
18 High Desert State Prison
19 P.O. Box 3030
Susanville, CA 96127-3030

20 Dated: October 22, 2008

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