

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

DOCK MCNEELY,

Petitioner,

No. CIV S-09-0196 DAD P

vs.

JOHN MCGINNESS,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner, currently confined at Napa State Hospital, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, together with a request to proceed in forma pauperis. This court will not rule on petitioner's request to proceed in forma pauperis.

Shortly after filing his petition, petitioner was transferred from the Sacramento County Main Jail to Napa State Hospital. Petitioner remains confined at Napa State Hospital, which is located in Napa County. Jurisdiction over this § 2241 petition is proper in the district in which petitioner's immediate custodian is located. See Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989) ("The proper forum to challenge the execution of a sentence is the district where the prisoner is confined."). Petitioner's custodian is located in the Northern District of California. Accordingly, pursuant to 28 U.S.C. § 1631 in the interests of justice this action will be transferred to the United States District Court for the Northern District of California.

1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. This court has not ruled on petitioner's request to proceed in forma pauperis;

3 2. This matter is transferred to the United States District Court for the Northern

4 District of California.

5 DATED: March 12, 2009.

6  
7   
8 \_\_\_\_\_  
9 DALE A. DROZD  
10 UNITED STATES MAGISTRATE JUDGE

11 DAD:9  
12 mcne0196.108

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26