

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

MARC E. O'DELL,

No. C 09-01428 SBA (PR)

Petitioner,

ORDER OF TRANSFER

v.

ROBERT WONG, Warden,

Respondent.

Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus.

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 Butte County Superior Court, which is in the venue of the Eastern District of California. See 28 U.S.C. § 84. Accordingly, that is the proper venue for this action.

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

All remaining motions are TERMINATED on this Court's docket as no longer pending in this district.

IT IS SO ORDERED.

DATED: 4/29/09


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California

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

4 MARC E. O'DELL,

5 Plaintiff,

6 v.

7 ROBERT WONG et al,

8 Defendant.

Case Number: CV09-01428 SBA

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 April 30, 2009, 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
14 located in the Clerk's office.

15 Marc Evan O'Dell F06395
16 California State Prison - San Quentin
17 San Quentin, CA 94974

18 Dated: April 30, 2009

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