

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

3  
4                    JOSE AVINA,                                    No. C 10-02681 CW (PR)  
5                                    Petitioner,                                    ORDER OF TRANSFER  
6                    v.  
7                    DARREL G. ADAMS,  
8                                    Respondent.  
9 \_\_\_\_\_/

10                    Petitioner, a state prisoner, has filed a pro se petition for  
11 a writ of habeas corpus in which he challenges the execution of his  
12 sentence. He has also filed a motion to stay federal habeas  
13 proceedings until all state remedies are exhausted.

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 Dannenberg 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 Corcoran State Prison, which  
2 lies within the venue of the Central District of California. See  
3 28 U.S.C. § 84. Because Petitioner challenges the execution of his  
4 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 and any pending motions be TRANSFERRED to  
7 the United States District Court for the Central District of  
8 California.

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

11           IT IS SO ORDERED.

12 Dated: 6/24/2010



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CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

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

4 JOSE AVINA,

5 Plaintiff,

6 v.

7 DARREL G ADAMS et al,

8 Defendant.

Case Number: CV10-02681 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 June 24, 2010, 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  
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
14 receptacle located in the Clerk's office.

15 Jose Avina J-86625  
16 4B - 4R #23  
17 P.O. Box 3481  
18 Corcoran, CA 93212

19 Dated: June 24, 2010

20 Richard W. Wieking, Clerk  
21 By: Nikki Riley, Deputy Clerk  
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