

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

4 JOSE MARIO GARCIA, No. C 12-1642 CW (PR)
5 Petitioner,
6 v. ORDER OF TRANSFER
7 LELAND McEWEN, Warden,
8 Respondent.

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10 Petitioner, a state prisoner incarcerated at Calipatria State
11 Prison, has filed a pro se petition for a writ of habeas corpus
12 pursuant to 28 U.S.C. § 2254, challenging the validity of his
13 conviction, which was obtained in Madera County Superior Court.

14 A federal petition for a writ of habeas corpus made by a
15 person in custody under the judgment and sentence of a state court
16 is properly filed in either the district of confinement or the
17 district of conviction. 28 U.S.C. § 2241(d). The district court
18 where the petition is filed, however, may transfer the petition to
19 the other district in the furtherance of justice. See id. Federal
20 courts in California traditionally have chosen to hear petitions
21 challenging a conviction or sentence in the district of conviction.
22 See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993);
23 Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968).

24 Petitioner was convicted in Madera County Superior Court,
25 which lies within the venue of the Eastern District of California.
26 28 U.S.C. § 84(b). He is incarcerated at Calipatria State Prison,
27 in Imperial County, which lies within the venue of the Southern
28 District of California. Id. § 84(d). Thus, jurisdiction over the

1 petition exists in either the Eastern District or the Southern
2 District, but not in the Northern District.

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

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

10 IT IS SO ORDERED.

11 Dated: 4/6/2012

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14 CLAUDIA WILKEN
15 UNITED STATES DISTRICT JUDGE
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