

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

GERROD L. HERNDON,

No. C 13-05567 YGR (PR)

Petitioner,

ORDER OF TRANSFER

v.

CALIFORNIA CORRECTIONAL
INSTITUTION,

Respondent.

In this habeas action Petitioner seeks to challenge a conviction and sentence incurred in Solano County Superior Court. Solano County is in the venue of the United States District Court for the Eastern District of California. Furthermore, Petitioner is incarcerated at the California Medical Facility in Vacaville, which is also in Solano County; therefore, it is in the Eastern District.

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 was convicted in and is confined at a penitentiary in Solano County, which lies within the venue of the Eastern District of California. *See* 28 U.S.C. § 84(b). 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.

IT IS SO ORDERED.

DATED: December 13, 2013



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE