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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL STACY,
Petitioner,
v.
J. GASTELO, Warden,
Respondent.

Case No. [17-cv-03925-DMR](#) (PR)**ORDER OF TRANSFER**

Petitioner, a state prisoner who is incarcerated at the California Men’s Colony (“CMC”), has filed this *pro se* petition for a writ of habeas corpus challenging as a violation of his constitutional rights a 2016 denial of parole by the California Board of Parole Hearings. Dkt. 1.

On July 12, 2017, Petitioner consented to magistrate judge jurisdiction. Dkt. 2.

Also on July 12, 2017, the Clerk of the Court sent a notice directing Petitioner to either pay the filing fee or file a completed prisoner’s *in forma pauperis* application form. Dkt. 3. The Clerk sent Petitioner a blank IFP application form, and informed him that he must return the completed form along with the supporting documents within twenty-eight days or his action would be dismissed. To date, Petitioner has not submitted a completed *in forma pauperis* application form.

A petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court of a State which contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. *See* 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. *See id.* Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. *See Dannenberg v. Ingle*, 831 F. Supp. 767, 767 (N.D. Cal. 1993); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968). If the petition is directed to the manner in which a sentence is being executed, e.g., if it

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Northern District of California

1 involves parole or time credits claims, the district of confinement is the preferable forum. *See*
2 Habeas L.R. 2254-3(a); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

3 Here, Petitioner does not challenge his conviction but rather the decision denying him
4 parole. CMC, the place of Petitioner’s confinement, is in San Luis Obispo County, which is
5 located in the Western Division of the Central District of California—the preferable forum for this
6 action. *See id.* Therefore, the Western Division of the United States District Court for the Central
7 District of California has jurisdiction over this matter.

8 Accordingly, this case is TRANSFERRED to the Western Division of the United States
9 District Court for the Central District of California.¹ *See* 28 U.S.C. § 1404(a). The Clerk shall
10 transfer the entire file to the Central District of California.

11 If Petitioner wishes to further pursue this action, he must complete the *in forma pauperis*
12 application required by the Western Division of the United States District Court for the Central
13 District of California and mail it to that district.

14 IT IS SO ORDERED.

15 Dated: July 20, 2017

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18 DONNA M. RYU
19 United States Magistrate Judge

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28 ¹ Venue transfer is a non-dispositive matter and, thus, it falls within the scope of the jurisdiction of the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(A).