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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VICTOR TOVAR,
Petitioner,
v.
R. RACKLEY, Warden,
Respondent.

Case No. [17-cv-05319-DMR](#) (PR)

ORDER OF TRANSFER

Petitioner, a state prisoner, has filed this *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the validity of his conviction obtained in the Santa Barbara County Superior Court. Dkt. 1. He has paid the full filing fee.

On September 13, 2017, the Clerk of the Court informed Petitioner that this action has been assigned to the undersigned Magistrate Judge. Dkt. 4. On October 12, 2017, Petitioner consented to magistrate judge jurisdiction. Dkt. 6.

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

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Here, Petitioner challenges a conviction and sentence incurred in the Santa Barbara County Superior Court, which is within the venue of the Western Division of the Central District of California. *See* 28 U.S.C. § 84(c). Therefore, the Western Division of the United States District Court for the Central District of California has jurisdiction over this matter.

Pursuant to 28 U.S.C. § 1406(a) and Habeas L.R. 2254-3(b), and in the interest of justice, this action is TRANSFERRED to the Western Division of the United States District Court for the Central District of California. The Clerk shall transfer the case forthwith.

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

IT IS SO ORDERED.

Dated: November 8, 2017



DONNA M. RYU
United States Magistrate Judge

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 VICTOR TOVAR,
4 Plaintiff,

5 v.

6 R. RACKLEY,
7 Defendant.

Case No. [4:17-cv-05319-DMR](#)

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on November 8, 2017, I SERVED a true and correct copy(ies) of the attached, by
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
15 receptacle located in the Clerk's office.

16
17 Victor Tovar ID: AF4814
18 Folsom State Prison
19 P.O. Box 715071
20 Represa, CA 95671

Dated: November 8, 2017

21
22 Susan Y. Soong
23 Clerk, United States District Court

24
25 
26 By: _____
27 Ivy Lerma Gatera, Deputy Clerk to the
28 Honorable DONNA M. RYU