

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICKY B. PAUGH,

1:09-cv-00394-WMW (HC)

Petitioner,

ORDER TRANSFERRING CASE TO THE  
UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF  
CALIFORNIA

vs.

ROBERT J. HERNANDEZ,

Respondent.

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

In this case, the petitioner is challenging a conviction from San Diego County, which is in the Southern District of California. Therefore, the petition should have been filed in the United States

1 District Court for the Souther District of California. In the interest of justice, a federal court may  
2 transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.  
3 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

4 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States  
5 District Court for the Southern District of California.

6  
7 IT IS SO ORDERED.

8 **Dated:** March 5, 2009

/s/ William M. Wunderlich  
UNITED STATES MAGISTRATE JUDGE

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28