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

PAUL GORDON WHITMORE,  
Petitioner,  
vs.  
LYDIA C. HENSE, Warden,  
Respondent.

1:09-cv-00920 YNP DLB (HC)  
ORDER TRANSFERRING CASE TO THE  
UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF  
CALIFORNIA

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254.

Venue for a habeas action is proper in either the district of confinement or the district of conviction. 28 U.S.C. A. § 2241 (d). However, it is preferable for petitions challenging a conviction or sentence to be heard in the district of conviction while petitions challenging the manner in which the sentence is being executed be heard in the district of confinement. Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989).

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 District Court for the Southern District of California. In the interest of justice, a federal court may transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.

1 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

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

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5           IT IS SO ORDERED.

6           **Dated: June 12, 2009**

/s/ **Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE

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