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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALLEN LYNN JEFFRIES,	)	1:10-cv-02068-SKO-HC
	)	
Petitioner,	)	ORDER TRANSFERRING ACTION
	)	
v.	)	
	)	
L. S. McEWEN, et al.,	)	
	)	
Respondent.	)	
	)	
_____	)	

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The petition reflects that Petitioner is incarcerated at Calipatria State Prison in Calipatria, California. (Pet. 1.) Petitioner is thus incarcerated within the Southern District of California.

Petitioner challenges findings resulting from a prison disciplinary proceeding that appears to have occurred while Petitioner was incarcerated at the Calipatria State Prison, which

1 is located within the Southern District of California.

2 Title 28 U.S.C. § 2241(d) provides as follows which respect  
3 to venue, jurisdiction, and transfer in a habeas proceeding  
4 pursuant to 28 U.S.C. § 2254:

5 Where an application for a writ of habeas corpus  
6 is made by a person in custody under the judgment  
7 and sentence of a State court of a State which  
8 contains two or more Federal judicial districts,  
9 the application may be filed in the district court  
10 for the district wherein such person is in custody  
11 or in the district court for the district  
12 within which the State court was held which  
13 convicted and sentenced him and each of such  
14 district courts shall have concurrent jurisdiction  
15 to entertain the application. The district court  
16 for the district wherein such application is filed  
17 in the exercise of its discretion and in furtherance  
18 of justice may transfer the application to the  
19 other district court for hearing and determination.

20 Although venue is generally proper in either the district of the  
21 prisoner's confinement or the convicting court's location,  
22 petitions challenging a conviction preferably are heard in the  
23 district of conviction, Laue v. Nelson, 279 F.Supp. 265, 266  
24 (N.D.Cal. 1968); petitions challenging execution of sentence are  
25 preferably heard in the district where the inmate is confined,  
26 Dunne v. Henman, 875 F.2d 244, 249 (9<sup>th</sup> Cir. 1989). A court  
27 should further consider traditional considerations of venue, such  
28 as the convenience of parties and witnesses and the interests of  
justice. Braden v. 30<sup>th</sup> Judicial Circuit Court of Kentucky, 410  
U.S. 484, 495 (1973).

29 Title 28 U.S.C. § 1406(a) provides that a district court of  
30 a district in which is filed a case laying venue in the wrong  
31 division or district shall dismiss, or if it be in the interest  
32 of justice, transfer such case to any district or division in  
33 which it could have been brought.

1 Title 28 U.S.C. § 1631 provides that if a civil action is  
2 filed in a court that lacks jurisdiction, the court shall, if it  
3 is in the interest of justice, transfer such action to any other  
4 court in which the action could have been brought at the time it  
5 was filed or noticed, and the action shall proceed as if it had  
6 been filed in or noticed for the court to which it is transferred  
7 on the date upon which it was actually filed in or noticed for  
8 the court from which it is transferred.

9 Here, the petition concerns not the propriety of  
10 Petitioner's conviction or sentence, but rather the execution of  
11 his sentence. Nevertheless, the Court's jurisdiction is not  
12 clear: unless Petitioner was convicted in a state court that is  
13 situated within the Eastern District of California, the Court  
14 does not have jurisdiction over the controversy. However, even  
15 if the Court does have jurisdiction, the petition concerns  
16 execution of Petitioner's sentence. Normally, the Southern  
17 District, as the district in which the Petitioner is confined,  
18 would be the appropriate venue for the action to proceed.  
19 Instead of delaying the determination of the Court's  
20 jurisdiction, the Court finds that the interests of justice would  
21 be served by transferring the petition to the district of  
22 Petitioner's confinement. Such a transfer would be appropriate  
23 pursuant to 28 U.S.C. § 1406(a) and 2241(d) if Petitioner's state  
24 court conviction was sustained in a court located within this  
25 district, or pursuant to 28 U.S.C. § 1631 if this Court lacked  
26 jurisdiction because Petitioner's state court conviction was not  
27 sustained in a court located within the Eastern District.

28 The Court will not rule on Petitioner's application to

1 proceed in forma pauperis.

2           Accordingly, it is ORDERED that the petition be transferred  
3 to the United States District Court for the Southern District of  
4 California. IT IS SO ORDERED.

5 **Dated: November 15, 2010**

**/s/ Sheila K. Oberto**  
**UNITED STATES MAGISTRATE JUDGE**

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