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

COLLIE GEORGE DOWNER,

Petitioner,

No. 2:09-cv-1491 JFM (HC)

vs.

M. CRAMER, Warden,

Respondent.

ORDER

_____/

Petitioner is incarcerated in Tutwiler, Missouri and was convicted in San Francisco County. San Francisco County is in an area embraced by the United States District Court for the Northern District of California. Accordingly, on June 5, 2009, the instant action was transferred to the Northern District of California.

However, on June 15, 2009, petitioner filed a request for this case to remain in the Eastern District of California. A review of court records reflects that petitioner's previous habeas petition,¹ based on the same conviction as challenged herein, was transferred to the Eastern District of California because the victim was related to a long-time employee of the Northern

¹ A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman, 803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980).

1 District of California.² Good cause appearing, petitioner's motion should be granted. Moreover,
2 pursuant to Local Rule 81-190(d), the above-captioned action should be reassigned to the
3 Magistrate Judge who considered the prior petition.

4 The parties should be aware that reassigning this action under Local Rule 81-
5 190(d) merely has the result that the action is assigned to the Magistrate Judge who considered
6 the prior petition; no consolidation of the actions is effected.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Petitioner's June 15, 2009 request is granted;
- 9 2. The June 5, 2009 order transferring this action to the Northern District of
10 California is vacated, and this action is reopened;
- 11 3. The Clerk of Court is directed to serve a copy of this order on the Northern
12 District of California, Case No. 3:09-cv-2622;
- 13 4. This action is reassigned to Magistrate Judge Craig M. Kellison for all further
14 proceedings; henceforth, the caption on documents filed in this action shall be shown as No.
15 2:09-cv-1491 CMK; and
- 16 5. The Clerk of the Court shall make appropriate adjustment in the assignment of
17 civil cases to compensate for this reassignment.

18 DATED: June 23, 2009.

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21 UNITED STATES MAGISTRATE JUDGE

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26 ² The earlier filing, 06cv1479 JKS CMK, was dismissed without prejudice because it was prematurely brought, and does not render the instant filing successive.