

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE A. GUADALUPE,

Petitioner,

-against-

SUPERINTENDENT KEYSER,
Sullivan Correctional Facility,

Respondent.

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MAUSKOPF, United States District Judge.

TRANSFER ORDER
17-CV-5028 (RRM)

Pro se petitioner Jose A. Guadalupe, who is currently incarcerated at the Sullivan Correctional Facility pursuant to a judgment of conviction entered in Orange County, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on August 3, 2017.

Title 28 of the United States Code, Section 2241(d) provides: “Where an application for a writ of habeas corpus is 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, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him.” 28 U.S.C. § 2241(d). In this case, petitioner was convicted and sentenced in Orange County and is currently in custody in Sullivan County. Accordingly, the petition must be filed in the Southern District of New York. *See* 28 U.S.C. § 112(b) (Orange County and Sullivan County are within the Southern District of New York); Local Rule 83.3.

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Accordingly, the Clerk of Court is directed to transfer this case to the United States District Court for the Southern District of New York. 28 U.S.C. § 1406(a) (district court may transfer case filed in the wrong district to any district in which it could have been brought). The

decisions as to whether petitioner should be permitted to proceed further without payment of fees and whether Petitioner has met the gate-keeping requirements of 28 U.S.C. § 2254 are reserved for the transferee court. That provision of Rule 83.1 of the Local Rules of the Eastern District of New York which requires a seven-day delay is waived. The Clerk of Court is directed to mail a copy of this order to petitioner, and to close the file.

SO ORDERED.

Dated: Brooklyn, New York
October 2, 2017

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge