

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JUAN GARCIA a/k/a JESUS GARCIA, 09A5409,

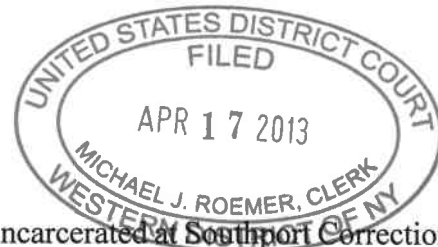
Petitioner,

-v-

DECISION AND ORDER
13-CV-0335Sr

SUPERINTENDENT GRIFFIN,

Respondent.



Petitioner Juan Garcia a/k/a/ Jesus Garcia, a prisoner incarcerated at Southport Correctional Facility filed this petition for writ of habeas corpus and a motion to proceed *in forma pauperis* in the United States District Court for the District of Columbia on or about February 14, 2013. The petition was transferred to this Court on the basis that petitioner is incarcerated in Southport Correctional Facility, which is located within the Western District of New York. However, petitioner seeks to challenge a conviction reached in the Queens County Court located in Queens County, New York. Although the petition refers to a conviction on August 19, 1997, for which petitioner is no longer in custody, it later refers to a conviction for Sex Abuse and Burglary that was charged in 2007. Petitioner is currently serving a sentence for Burglary in the Second Degree and Sexual Abuse in the First Degree, of which he was convicted by plea of guilty in 2009. *See People v. Juan Garcia, a/k/a Jesus Garcia*, 94 A.D. 3d 775 (N.Y.A.D. 2 Dept. 2012). The Court finds that the Southern District of New York would be a more convenient forum for this action because all of the records relating to the petitioner's underlying criminal conviction are located in that district. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 499, n.15 (1973). The determination of the

petitioner's motion for permission to proceed *in forma pauperis* has been left to the Southern District of New York.

IT HEREBY IS ORDERED, that the case is transferred to the United States District Court for the Southern District of New York.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

DATED:

April 15, 2013
Rochester, New York