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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EMMETT WADE CHRISTIAN,

No. 2:15-cv-0541-JAM-EFB P

Plaintiff,

v.

ORDER

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On August 7, 2015, the court recommended that this action be dismissed for failure to prosecute after plaintiff failed to respond to the court’s order to show cause as to why this action should not be transferred for lack of venue. In his August 21, 2015 objections, plaintiff claims that venue is proper in this district because a “Defendant at Folsom State Prison” violated his rights under the Fourteenth Amendment. ECF No. 14 at 1. Plaintiff’s complaint, however, does not show that any defendant at Folsom State Prison violated his constitutional rights.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, must be brought in “(1) a judicial district where any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which

1 a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part
2 of the property that is the subject of the action is situated; or (3) if there is no district in which an
3 action may otherwise be brought as provided in this section, any judicial district in which any
4 defendant is subject to the court's personal jurisdiction with respect to such action." 28 U.S.C.
5 § 1391(b).

6 Plaintiff's complaint alleges that officials at the California Men's Colony, in San Luis
7 Obispo County, violated his constitutional rights. Accordingly, those claims arose in the Central
8 District of California. The complaint did not include specific allegations to demonstrate that
9 venue is proper in this district. In an abundance of caution and in light of plaintiff's objections,
10 the court will vacate the August 7, 2015 findings and recommendations and allow plaintiff leave
11 to file an amended complaint with allegations showing that venue is proper in this district.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The August 7, 2015 findings and recommendations (ECF No. 12) are vacated,
- 14 2. Within 30 days from the date this order is served, plaintiff may file an amended
15 complaint with allegations showing that venue is proper in this district. The amended
16 complaint must be written or typed so that it so that it is complete in itself without
17 reference to any earlier filed complaint and may not change the nature of this suit by
18 alleging new, unrelated claims.
- 19 3. Failure to comply with this order may result in either an order transferring this case to
20 the United States District Court for the Central District of California or a
21 recommendation of dismissal.

22 DATED: October 26, 2015.

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24 EDMUND F. BRENNAN
25 UNITED STATES MAGISTRATE JUDGE
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