

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

BEAUMONT DIVISION

HERMAN LEE KINDRED

§

VS.

§

CIVIL ACTION NO. 1:24cv127

L. MASSINGILL, ET AL.

§

MEMORANDUM OPINION REGARDING VENUE

Plaintiff Herman Lee Kindred, an inmate at the Bell County Jail located in Belton, Texas, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 against L. Massingill, R. Tejada, and other unknown members of the Gatesville Parole Board.<sup>1</sup>

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Plaintiff alleges that his civil rights were violated when the defendants intentionally and knowingly delayed his release on parole in 2022.

Analysis

Plaintiff does not assert jurisdiction is based on diversity of citizenship. When jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose.

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<sup>1</sup> Plaintiff's claims against the defendants in this action were filed as a post-judgment motion in another action filed by Plaintiff and were severed in order to form this case. *See Kindred v. Director, TDCJ-CID*, No. 1:22cv244 (E.D. Tex, Apr. 19, 2023).

Plaintiff is currently confined at the Bell County Jail located in Belton, Texas. Additionally, his claims arose in Gatesville, Coryell County, Texas. In accordance with 28 U.S.C. § 124, both Bell County and Coryell County are located within the jurisdictional boundaries of the United States District Court for the Western District of Texas, Waco Division. When public officials are parties to an action in their official capacities, they reside for venue purposes in the county where they perform their official duties, which in this case is in the Western District. *Holloway v. Gunnell*, 685 F.2d 150 (5th Cir. 1982); *Lowrey v. Estelle*, 433 F.2d 265 (5th Cir. 1976).

Venue in the Eastern District of Texas is not proper. When venue is not proper, the court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). This case should be transferred to the United States District Court for the Western District of Texas, Waco Division. An appropriate order so providing will be entered by the undersigned.

**SIGNED this the 4th day of April, 2024.**



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Christine L Stetson  
UNITED STATES MAGISTRATE JUDGE