

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

ANTHONY BERNARD WINGFIELD §
VS. § CIVIL ACTION NO. 9:21cv136
OFFICER GARNER, ET AL. §

MEMORANDUM OPINION AND ORDER

Anthony Bernard Wingfield, an inmate confined in the Polunsky Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brings this civil rights action.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue is controlled by 28 U.S.C. § 1391.

When, as in this case, 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.

Plaintiff complains of events which occurred at the Michael Unit, which is located in Anderson County. In addition, the defendants, Officer Garner, Officer Hinejosa and Sergeant Ellis, work at the Michael Unit and appear to reside in Anderson County. Plaintiff's claims concerning such events therefore arose in Anderson County and the defendants apparently reside in Anderson County. Pursuant to 28 U.S.C. § 124, Anderson County is located in the Eastern District of Texas. As a result, venue regarding plaintiff's claims is proper in this court.

However, while Anderson County is in the Eastern District of Texas, it is in the Tyler Division, rather than the Lufkin Division. None of the events complained of in this lawsuit occurred within the Lufkin Division. Nor do any of the defendants reside in the Lufkin Division.

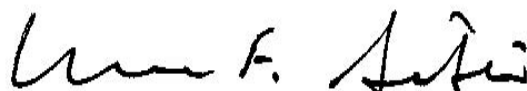
When a case is filed in the wrong division, the court "shall dismiss, or if it be in the interests of justice, transfer such case to any district or division in which it could have been brought." 28

U.S.C. § 1406(a). Accordingly, plaintiff's claims will be transferred to the Tyler Division of this court.

ORDER

For the reasons set forth above, it is **ORDERED** that this matter is transferred to the Tyler Division of this court.

SIGNED this the 13th day of August, 2021.

A handwritten signature in black ink, appearing to read "Keith F. Giblin", written over a horizontal line.

KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE