

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

BERNIE FELTMAN,)	
)	
)	
Plaintiff,)	
)	
v.)	CASE NO.: 1:16-CV-296-WKW
)	(WO)
BNSF RAILWAY COMPANY, INC.,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Before the court is Defendant’s motion to dismiss without prejudice, or, alternatively, to transfer venue to the United States District Court for the Northern District of Alabama. (Doc. # 6.) Plaintiff opposes the motion to dismiss, but does not oppose the motion to transfer. (Doc. # 7.)

Plaintiff brings this suit on the basis of his allegation that Defendant did not hire him for the position of Conductor Trainee on the basis of his disability or perceived disability. It is undisputed that the Conductor Trainee position was located in Birmingham, Alabama. (Doc. # 6-1 at 2.) Therefore, venue is proper in the Northern District of Alabama. 42 U.S.C. 2000e-5(f)(3) (providing that actions may be brought “in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice”); 42 U.S.C.A. § 12117(b) (providing that § 2000e-5 governs venue in cases alleging disability discrimination

in employment in violation of the Americans with Disabilities Act, 42 U.S.C. § 12112, *et seq.*).

The complaint contains no allegations that support venue in the Middle District of Alabama.¹

Accordingly, it is ORDERED:

1. The motion to dismiss (Doc. # 6) is DENIED.
2. Pursuant to 28 U.S.C. § 1406(a), the motion to transfer (Doc. # 6) is GRANTED and this case is TRANSFERRED to the United States District Court for the Northern District of Alabama, Southern Division.

The Clerk of the Court is DIRECTED to take the necessary steps to effectuate the terms of this order.

DONE this 27th day of June, 2016.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE

¹ The complaint contains an allegation that Plaintiff worked for Defendant in Henry County, Alabama. However, as Defendant points out, this appears to be a mistaken allegation. Plaintiff's claims are premised on his allegation that, on the basis of his disability, Defendant never hired him at all.