

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Roberto Javier Frisancho,

Plaintiff,

vs.

Jan Brewer, in her official capacity as
Governor of the State of Arizona; Terry
Goddard, in his official capacity as
Attorney General of the State of Arizona,

Defendants.

No. CV 10-926-PHX-SRB

ORDER

The Court now resolves the two pending Motions to Transfer Related Cases (Docs. 8, 13).

I. BACKGROUND

Plaintiff Roberto Frisancho, who is proceeding pro se in this matter, filed his first Complaint on April 27, 2010. Plaintiff brings constitutional challenges to Arizona’s recently-passed “Support Our Law Enforcement and Safe Neighborhoods Act” and its subsequent amendment (collectively, “SB 1070”). After Plaintiff’s suit was filed, four other cases were initiated in this district, also bringing constitutional challenges to SB 1070. Those cases are: (1) *Martin H. Escobar v. Jan Brewer, et al.*, No. CV 10-249-TUC-DCB (“*Escobar*”), filed on April 29, 2010, and pending before Judge Bury; (2) *David Salgado v. Jan Brewer, et al.*, No. CV 10-951-PHX-ROS (“*Salgado*”), filed April 29, 2010, and pending before Judge Silver; (3) *National Coalition of Latino Clergy and Christian Leaders v. State of Arizona, et al.*, No. CV 10-943-PHX-SRB, filed on April 29, 2010, and pending before this Court; and (4) *Friendly House, et al. v. Whiting, et al.*, No. CV 10-1061-PHX-JWS (“*Friendly House*”),

1 filed on May 17, 2010, and pending before Judge Sedwick.

2 On May 21, 2010, the *Friendly House* plaintiffs filed a Motion to Transfer that matter
3 to this Court. (Doc. 8.) On May 28, 2010, Defendant Governor Brewer filed a Motion to
4 Transfer the *Escobar* and *Salgado* matters to this Court. (Doc. 13.) On June 17, 2010, this
5 Court directed all parties to all five pending SB 1070-related matters to respond to the two
6 pending Motions to Transfer. (Doc. 27.) The Court has considered all the filed responses.

7 **II. LEGAL STANDARDS AND ANALYSIS**

8 The Local Rules for this district provide that related cases may be transferred under
9 the following circumstances:

10 Any party may file a motion to transfer the case or cases involved to a single
11 Judge whenever two or more cases are pending before different Judges and
12 any party believes that such cases: (1) arise from substantially the same
13 transaction or event; (2) involve substantially the same parties or property; (3)
involve the same patent, trademark, or copyright; (4) call for determination of
substantially the same questions of law; or (5) for any other reason would
entail substantial duplication of labor if heard by different Judges.

14 LRCiv 42.1(a). Local Rule 42.1(a) also provides, “The motion shall be filed in the case with
15 the lowest case number assigned to a District Judge who shall hear and decide the motion.”
16 In making a determination about which judge will be assigned the related cases, Local Rule
17 42.1 states that the following factors may be considered: “(1) whether substantive matters
18 have been considered in a case; (2) which Judge has the most familiarity with the issues
19 involved in the cases; (3) whether a case is reasonably viewed as the lead or principal case;
20 or (4) any other factor serving the interest of judicial economy.” LRCiv 42.1(d).

21 After reviewing the filings of the parties to the Motions to Transfer and the dockets
22 in the related cases, the Court concludes that transfer is appropriate in this instance. No
23 substantive matters have been considered, much less resolved, in any of the cases. Moreover,
24 among Judge Silver, Judge Bury, Judge Sedwick, and this Court, none has significantly more
25 familiarity with the issues involved in the cases. At this juncture, as no substantive matters
26 have been considered, no one case may be considered the lead case. Finally, all parties agree
27 that these five cases should be heard by a single judge, which is clearly in the interest of
28 judicial economy. No party has articulated a compelling reason for any particular judge to

1 hear the matters, as opposed to this Court, which has been assigned the case with the lowest
2 case number.

3 Therefore, the Court grants the Motions to Transfer filed by the *Friendly House*
4 plaintiffs and Defendant Governor Brewer. Plaintiffs in each of the five cases are directed
5 to file a notice no later than 5:00 p.m. on Tuesday, June 29, 2010, listing all motions pending
6 in each case and the briefing status of those motions. These notices are to be filed in the
7 individual cases. Plaintiffs are also directed to provide the Court with courtesy copies of all
8 pending motions in each case.

9 **IT IS ORDERED** granting the Motion to Transfer Related Case filed by the plaintiffs
10 in Case No. CV 10-1061-PHX-JWS (Doc. 8).

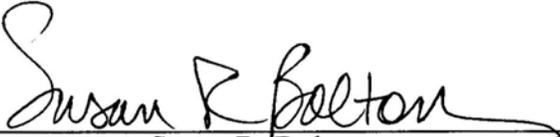
11 **IT IS FURTHER ORDERED** granting the Motion to Transfer Related Cases to this
12 Court filed by Governor Brewer, defendant in Case No. CV 10-249-TUC-DCB and Case No.
13 CV 10-951-PHX-ROS (Doc. 13).

14 **IT IS FURTHER ORDERED** transferring the following cases to this Court: CV 10-
15 249-TUC-DCB, CV 10-951-PHX-ROS, and CV 10-1061-PHX-JWS.

16 **IT IS FURTHER ORDERED** directing Plaintiffs in CV 10-926-PHX-SRB, CV 10-
17 943-PHX-SRB, CV 10-249-TUC-DCB, CV 10-951-PHX-ROS, and CV 10-1061-PHX-JWS
18 to file a notice summarizing all pending motions in each case and the briefing status of those
19 motions, no later than 5:00 p.m. on Tuesday, June 29, 2010.

20 **IT IS FURTHER ORDERED** that all future filings in the transferred cases shall bear
21 the following case numbers: CV 10-249-TUC-SRB, CV 10-951-PHX-SRB, and CV 10-
22 1061-PHX-SRB.

23
24 DATED this 25th day of June, 2010.

25
26
27
28 
Susan R. Bolton
United States District Judge