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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JAMES HAMILTON,	)	NO. ED CV 14-2389-CJC(E)
	)	
Plaintiff,	)	
	)	
v.	)	ORDER RE CIVIL RIGHTS COMPLAINT
	)	
CLIFF ALLENBY, et al.,	)	
	)	
Defendants.	)	
	)	

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**BACKGROUND**

Plaintiff, a civil detainee allegedly confined at the Coalinga State Hospital pursuant to California's Sexually Violent Predators Act ("SVPA"), California Welfare and Institutions Code § 6600 et seq., brings this action pursuant to 42 U.S.C. section 1983. Defendants are: (1) Cliff Allenby, Director of the California Department of State Hospitals; (2) Audrey King, Executive Director of Coalinga State Hospital; (3) Tom Voss, former Executive Director of Coalinga State Hospital; (4) Pam Ahlin, former Executive Director of Coalinga State Hospital; and (5) Stephen Mayberg, former Director of the California

1 Department of Mental Health. Plaintiff sues Defendants in their  
2 official capacities (Complaint, ¶ 9).

3  
4 Plaintiff alleges that he presently is confined at the Coalinga  
5 State Hospital pursuant to an order of the San Bernardino Superior  
6 Court (id., ¶¶ 11-12). Plaintiff alleges that the San Bernardino  
7 Superior Court ordered under the SVPA that Plaintiff be prohibited  
8 from taking part in outpatient treatment (id., ¶ 13). Plaintiff  
9 alleges that Defendants continue to retain Plaintiff in custody  
10 despite supposedly knowing that Plaintiff will be subjected to  
11 excessively restrictive conditions and will be denied the benefits of  
12 outpatient treatment, assertedly on irrational grounds (id.).  
13 Defendants allegedly used a supposedly fraudulent assessment scheme to  
14 deem Plaintiff likely to commit a sexually violent offense if released  
15 to an outpatient program (id., ¶¶ 13-37).

16  
17 Plaintiff alleges that the use of the assertedly irrational  
18 assessment scheme to deny Plaintiff outpatient treatment violates Due  
19 Process and Equal Protection (id., "Claim," pp. 9-10). Plaintiff  
20 allegedly suffered emotional distress and a deprivation of the  
21 increased liberty he would have experienced in an outpatient setting  
22 (id., "Request for Relief," p. 11). Plaintiff seeks relief in the  
23 form of a declaration that the assessment methodology the State uses  
24 under the SVPA to determine an individual's suitability for outpatient  
25 treatment is irrational in violation of Due Process (id.). Plaintiff  
26 also seeks punitive damages (id.).

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1 commenced and inviting district court review and rejection of those  
2 judgments"); Smith v. Hoshino, 2011 WL 5241164, at \*4 (E.D. Cal.  
3 Nov. 1, 2011) (Rooker-Feldman doctrine barred challenge to allegedly  
4 flawed assessment which resulted in state court's judgment that  
5 plaintiff was a danger to the public under the SVPA).

6  
7 Finally, it appears venue may be improper. Although Plaintiff  
8 contends he is confined pursuant to an order of the San Bernardino  
9 Superior Court, Plaintiff's claims apparently concern Defendants'  
10 alleged actions in assessing Plaintiff at the Coalinga State Hospital.  
11 A civil action may be brought in: (1) a judicial district in which any  
12 defendant resides, if all defendants reside in the same State in which  
13 the district is located; (2) a judicial district in which a  
14 substantial part of the events or omissions giving rise to the claim  
15 occurred, or a substantial part of property that is the subject of the  
16 action is situated; or (3) if there is no district in which an action  
17 may otherwise be brought, any judicial district in which any defendant  
18 is subject to the court's personal jurisdiction with respect to the  
19 action. See 28 U.S.C. § 1391(b).

20  
21 Plaintiff does not allege that any Defendant is a resident of  
22 this District. The Coalinga State Hospital is located in Fresno  
23 County in the Eastern District of California. See Russ v. Ahlin, 2011  
24 WL 4048776, at \*4 (E.D. Cal. Sept. 9, 2011); 28 U.S.C. § 84(b). It  
25 appears that a substantial part of the alleged actions or omissions of  
26 which Plaintiff complains may have occurred at the Coalinga State  
27 Hospital.

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1 In the interest of justice, a court in a district in which venue  
2 is improper may transfer the action to a district where the action  
3 might have been brought. See 28 U.S.C. § 1406(a); see also 28 U.S.C.  
4 § 1404(a) (even if venue is proper, a court may transfer the action  
5 “[f]or the convenience of parties or witnesses”). A court may  
6 transfer the action sua sponte before a responsive pleading is filed.  
7 See Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986).

8  
9 **ORDER**

10  
11 1. Plaintiff’s official capacity claims for punitive damages are  
12 dismissed without leave to amend and with prejudice.

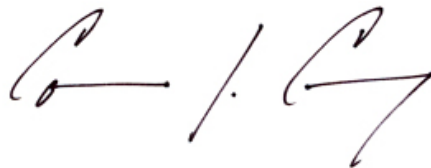
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14 2. The Complaint otherwise is dismissed with leave to amend. If  
15 Plaintiff still wishes to pursue this action, he is granted thirty  
16 (30) days from the date of this Order within which to file a First  
17 Amended Complaint. The First Amended Complaint shall be complete in  
18 itself, and shall not refer in any manner to any prior complaint or to  
19 any other document. The First Amended Complaint may not contain any  
20 claim dismissed without leave to amend in this Order. Failure to file  
21 timely a First Amended Complaint in conformity with this Order may  
22 result in the dismissal of this action. See Pagtalunan v. Galaza, 291  
23 F.3d 639, 642-43 (9th Cir. 2002), cert. denied, 538 U.S. 909 (2003)  
24 (court may dismiss action for failure to follow court order); Simon v.  
25 Value Behavioral Health, Inc., 208 F.3d 1073, 1084 (9th Cir.),  
26 amended, 234 F.3d 428 (9th Cir. 2000), cert. denied, 531 U.S. 1104  
27 (2001), overruled on other grounds, Odom v. Microsoft Corp., 486 F.3d  
28 541 (9th Cir.), cert. denied, 552 U.S. 985 (2007) (affirming dismissal

1 without leave to amend where plaintiff failed to correct deficiencies  
2 in complaint, where court had afforded plaintiff opportunities to do  
3 so, and where court had given plaintiff notice of the substantive  
4 problems with his claims); Plumeau v. School District #40, County of  
5 Yamhill, 130 F.3d 432, 439 (9th Cir. 1997) (denial of leave to amend  
6 appropriate where further amendment would be futile).

7  
8 3. Within thirty (30) days of the date of this Order, Plaintiff  
9 must file a separate writing attempting to show cause, if any there  
10 be, why the action should not be transferred to the United States  
11 District Court for the Eastern District of California. Failure to do  
12 so may be deemed consent to the transfer.

13  
14 IT IS SO ORDERED.

15  
16 Dated: December 2, 2014

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20 \_\_\_\_\_  
CORMAC J. CARNEY  
UNITED STATES DISTRICT JUDGE

21  
22 Presented this 1st  
23 day of December, 2014 by:

24  
25 \_\_\_\_\_/s/  
CHARLES F. EICK  
26 UNITED STATES MAGISTRATE JUDGE