

1
2
3
4
5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7

8 EDWARD LEE TURNER,

9 Plaintiff,

10 vs.

11 DERRAL G. ADAMS, et al,

12 Defendants.
13

) No. C 10-2086 JSW (PR)

) **ORDER OF TRANSFER**

) (Docket No. 2)
14

15 Plaintiff, a prisoner of the State of California, currently incarcerated at the
16 Pleasant Valley State Prison in Coalinga, California, has filed this civil rights action
17 under 42 U.S.C. § 1983 complaining about the conditions of his confinement while
18 incarcerated at that prison. Although it is not entirely clear from the information in the
19 complaint, it appears that Plaintiff is challenging his access to the courts or interference
20 with prison officials in ongoing litigation involving Plaintiff. Plaintiff has filed an
21 application to proceed *in forma pauperis* (docket no. 2.)

22 In the complaint, Plaintiff complains about Defendants located in Fresno County,
23 within the venue of the United States District Court for the Eastern District of California
24 as well as his conditions of confinement at the prison in that venue. Plaintiff alleges no
25 basis for jurisdiction within the venue of the United States District Court for the
26 Northern District of California.

27 When jurisdiction is not founded solely on diversity, venue is proper in the
28 district in which (1) any defendant resides, if all of the defendants reside in the same
state, (2) the district in which a substantial part of the events or omissions giving rise to
the claim occurred, or a substantial part of property that is the subject of the action is


1 situated, or (3) a judicial district in which any defendant may be found, if there is no
2 district in which the action may otherwise be brought. 28 U.S.C. § 1391(b). Where a
3 case is filed in the wrong venue, the district court has the discretion either to dismiss the
4 case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. §
5 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet
6 filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790
7 F.2d 1486, 1488 (9th Cir. 1986).

8 Plaintiff brings his claims involving Defendants who reside within the venue of
9 the Eastern District of California, in a case where a substantial part of the events or
10 omissions giving rise to the claim also occurred. *See* 28 U.S.C. §1391(b)(2).

11 Accordingly, IT IS ORDERED in the interest of justice, and pursuant to 28 U.S.C. §
12 1406(a), that this action be TRANSFERRED to the United States District Court for the
13 Eastern District of California. In light of the transfer, the Court will not resolve
14 Plaintiff’s pending motion (docket no. 2). The Clerk of the Court shall transfer this
15 matter forthwith.

16 IT IS SO ORDERED.

17 DATED: October 12, 2010

18 
19 _____
20 JEFFREY S. WHITE
21 United States District Judge\

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

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

EDWARD LEE TURNER,

Plaintiff,

v.

DERRA G. ADAMS et al,

Defendant.

Case Number: CV10-02086 JSW


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 12, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Edward Lee Turner
V25872
P.O.Box 8503
Coalinga, CA 93210

Dated: October 12, 2010


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk