

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARTIN J. BIBBS, No. C 10-3999 CW (PR)  
Plaintiff, ORDER OF TRANSFER  
v.  
JAMES E. TILTON, Secretary of the  
California Department of  
Corrections and Rehabilitation,  
et al.,  
Defendants.

Plaintiff, a state prisoner incarcerated at Pelican Bay State  
Prison (PBSP), has filed a pro se civil rights action pursuant to  
42 U.S.C. § 1983. Plaintiff has paid the filing fee.

Although Plaintiff currently is incarcerated at PBSP, four of  
the six named Defendants are employed at the California  
Correctional Institution in Tehachapi, and the bulk of Plaintiff's  
claims arise out of events occurring at that facility.  
Additionally, another of the six named Defendants is the Secretary  
of the California Department of Corrections and Rehabilitation in  
Sacramento. Both Tehachapi, which is in Kern County, and  
Sacramento, which is in Sacramento County, are located within the  
venue of the United States District Court for the Eastern District  
of California. See 28 U.S.C. § 84(b). One of the six named  
Defendants is the Warden at PBSP, which is in Del Norte County and  
is located within the venue of the Northern District of California.  
See 28 U.S.C. § 84(a).

When, as here, jurisdiction is not founded solely on  
diversity, venue is proper in the district in which (1) any

1 defendant resides, if all of the defendants reside in the same  
2 state, (2) the district in which a substantial part of the events  
3 or omissions giving rise to the claim occurred, or a substantial  
4 part of property that is the subject of the action is situated, or  
5 (3) a judicial district in which any defendant may be found, if  
6 there is no district in which the action may otherwise be brought.  
7 28 U.S.C. § 1391(b). In the instant action, there are Defendants  
8 located in both the Northern and Eastern Districts, thus, under  
9 § 1391(b), venue is allowed in either district.

10 Where, however, an alternative forum with greater relation to  
11 the defendants or the action exists than the forum in which the  
12 action was filed, 28 U.S.C. § 1404(a) allows transfer of a case  
13 from one federal district court to another "[f]or the convenience  
14 of parties and witnesses, in the interest of justice." Here, the  
15 majority of the Defendants are located in the Eastern District and  
16 the majority of the claims arise from events occurring in that  
17 district. Consequently, the Eastern District has a greater  
18 relation to the Defendants and the claims than does this Court.

19 Accordingly, IT IS ORDERED in the interest of justice and for  
20 the convenience of both the parties and the witnesses, and pursuant  
21 to 28 U.S.C. § 1404(a), that this action be TRANSFERRED to the  
22 United States District Court for the Eastern District of  
23 California.

24 The Clerk of the Court shall transfer this matter forthwith.

25 IT IS SO ORDERED.

26 Dated: 6/16/2011



CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

28

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 MARTIN J BIBBS,  
5 Plaintiff,

Case Number: CV10-03999 CW

**CERTIFICATE OF SERVICE**

6 v.

7 CDCR SECRETARY et al,  
8 Defendant.

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

11 That on June 16, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
14 receptacle located in the Clerk's office.

15 Martin J. Bibbs H-03951  
16 P.O. Box 7500, C5-119  
17 Cresnet City, CA 95531

Dated: June 16, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk