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

4 EDIN A. CHACON, No. C 11-00122 CW (PR)  
5 Plaintiff, ORDER OF TRANSFER  
6 v.  
7 J. CERRINI, et al.,  
8 Defendants.  
9 \_\_\_\_\_ /

10  
11 Plaintiff, a state prisoner incarcerated at the California  
12 Correctional Institution at Tehachapi (CCI), has filed this pro se  
13 civil rights action pursuant to 42 U.S.C. § 1983. His motion for  
14 leave to proceed in forma pauperis has been granted.

15 In his complaint, Plaintiff alleges that on December 11, 2008,  
16 he was transferred from CCI to San Quentin State Prison (SQSP) to  
17 attend the trial of his civil rights action against medical  
18 personnel at Pelican Bay State Prison.<sup>1</sup> Plaintiff remained at SQSP  
19 until February 18, 2009, when he was transferred back to CCI.

20 Plaintiff claims that during the approximately three months he  
21 spent at SQSP, Correctional Officer J. Cerrini retaliated against  
22 him for his lawsuit by refusing to allow him access to legal  
23 materials he required for his trial, verbally harassing him and  
24 calling him a "stool pigeon" in front of other inmates, falsely  
25 accusing him of misconduct in order to keep him in administrative  
26 segregation, and intentionally throwing a food tray at him.

27 Further, Plaintiff maintains that after he returned to CCI in  
28 \_\_\_\_\_

<sup>1</sup>See Chacon v. Gallian, et al., Case No. C 05-04880 SI (PR).

1 February 2009, CCI institutional gang investigators T. Crouch and  
2 J. Tyree, and CCI appeals coordinator K. Sampson, retaliated  
3 against him for his lawsuit by revalidating Plaintiff as a gang  
4 member based on false evidence allegedly found by Cerrini in  
5 Plaintiff's cell at SQSP. Additionally, Plaintiff complains that  
6 after he was revalidated based on such evidence, he filed an  
7 administrative appeal at SQSP asking for the evidence to be removed  
8 from his file, but SQSP institutional gang investigator E. Patao  
9 and SQSP correctional lieutenant T. Amrhein-Conama retaliated  
10 against him by refusing to do so. Plaintiff seeks monetary damages  
11 and equitable relief.

12 Venue may be raised by the court sua sponte where the  
13 defendant has not filed a responsive pleading and the time for  
14 doing so has not run. See Costlow v. Weeks, 790 F.2d 1486, 1488  
15 (9th Cir. 1986). When jurisdiction is not founded solely on  
16 diversity, venue is proper in (1) the district in which any  
17 defendant resides, if all of the defendants reside in the same  
18 state; (2) the district in which a substantial part of the events  
19 or omissions giving rise to the claim occurred, or a substantial  
20 part of the property that is the subject of the action is situated;  
21 or (3) a judicial district in which any defendant may be found, if  
22 there is no district in which the action may otherwise be brought.  
23 See 28 U.S.C. § 1391(b).

24 In the present action, Plaintiff alleges facts concerning  
25 defendants and events in two different judicial districts.  
26 Specifically, SQSP is located in Marin County in the Northern  
27 District of California, and CCI is located in Kern County in the  
28 Eastern District of California. See 28 U.S.C. § 84(a),(b).

1 Consequently, under § 1391(b), venue is proper in either district.  
2 Where, however, an alternative forum with greater relation to the  
3 defendants or the action exists than the forum in which the action  
4 was filed, the action may be transferred to such alternative forum  
5 "[f]or the convenience of parties and witnesses, in the interest of  
6 justice." See 28 U.S.C. § 1404(a).

7 Here, the Court concludes the Eastern District would be a more  
8 convenient forum because Plaintiff is incarcerated at CCI in the  
9 Eastern District, the Defendants responsible for Plaintiff's  
10 revalidation as a gang member all are employed at CCI, the decision  
11 to rely on the alleged false report by Cerrini and to revalidate  
12 Plaintiff as a gang member was made by Defendants at CCI,  
13 Plaintiff's retaliation claim against Cerrini is in large part  
14 based on Cerrini's alleged falsification of the report relied upon  
15 to revalidate Plaintiff, and Plaintiff's claims against the two  
16 SQSP Defendants other than Cerrini stem from Plaintiff's  
17 unsuccessful attempts to have those Defendants remove Cerrini's  
18 report from Plaintiff's file.

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: 10/5/2011

27   
28 CLAUDIA WILKEN  
United States District Judge

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

4 EDIN A. CHACON,

5 Plaintiff,

6 v.

7 J. CERRINI et al,

8 Defendant.

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Case Number: CV11-00122 CW

**CERTIFICATE OF SERVICE**

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 October 5, 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 said  
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
14 located in the Clerk's office.

15 Edin A. Chacon K-30713  
16 California Correctional Institution  
17 4B/6B 105L  
18 P.O. Box 1906  
19 Tehachapi, CA 93581

20 Dated: October 5, 2011

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