

## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

1 DANIEL BUSTOS, ) Case No.: 1:12-cv-00725-AWI-SKO  
2 )  
3 Plaintiff, )  
4 )  
5 v. )  
6 MICHAEL J. ASTRUE, ) **ORDER TO FILE DECLARATION  
7 Commissioner of Social Security, ) SUBSTANTIATING PLAINTIFF'S  
8 ) PLACE OF RESIDENCE AND SHOW  
9 ) CAUSE WHY THE CASE SHOULD NOT  
10 ) BE TRANSFERRED  
11 )  
12 )  
13 )  
14 Defendant. )  
15 )  
16 )**

---

17 On May 2, 2012, Plaintiff filed the present action in this Court. Plaintiff seeks review of the  
18 Commissioner's denial of his application for benefits. In his complaint, Plaintiff asserts that venue  
19 is proper in the Fresno Division of this district because he is a resident of Fresno County. (Docs. 2,  
20 7.) However, the Court finds nothing in the record that indicates Plaintiff currently resides in Fresno  
21 County or in a county that is within the Fresno Division of the U.S. District Court for the Eastern  
22 District of California ("Eastern District"). For example, notice of the Appeals Council's February  
23 29, 2012, denial of review was sent to Plaintiff in Stockton, California, which is in San Joaquin  
24 County. (Administrative Record ("AR") 1.) The hearing before the Administrative Law Judge took  
25 place in Stockton, California. (AR 35.) The appointment of representative form that Plaintiff  
26 completed reflects that Plaintiff resides in Stockton, California. (AR 137.)

27 Federal law is clear on the issue of venue; the claimant must file suit in the judicial district  
28 where he or she resides, or has a principal place of business. 42 U.S.C. § 405(g). If the claimant

1 files suit in the wrong district, the Court may transfer venue to the proper district. Because the  
2 evidence contained in the Administrative Record does not comport with the Civil Cover Sheet  
3 Plaintiff submitted as to his place of residence, Plaintiff shall file a declaration under penalty of  
4 perjury setting forth his address at the time he filed his complaint and his current address, to the  
5 extent it has changed since May 2, 2012. In support of his declaration, Plaintiff shall provide  
6 documentary evidence sufficient to establish his residential address at the time he filed his complaint,  
7 and his current address to the extent it has changed since May 2, 2012, such as a utility statement.  
8 To the extent Plaintiff's place of residence is not within this district or within the Fresno division of  
9 the Eastern District, Plaintiff should show cause why this case should not be transferred to the  
10 appropriate district court or division.

11 Accordingly, IT IS HEREBY ORDERED that **on or before January 4, 2013:**

12 1. Plaintiff shall file a declaration signed under penalty of perjury setting forth his place  
13 of residence at the time he filed the complaint in this matter and his current  
14 residential address, to the extent it has changed since May 2, 2012; and  
15 2. To the extent Plaintiff's place of residence is not within this district or within the  
16 counties of the Fresno Division of the Eastern District, Plaintiff shall show cause why  
17 this case should not be transferred to the appropriate district or division.

18  
19  
20  
21 IT IS SO ORDERED.

22 **Dated: December 19, 2012**

23 **/s/ Sheila K. Oberto**  
24 **UNITED STATES MAGISTRATE JUDGE**