

1 the hearing in his stead, or to grant Plaintiff a change of venue to the United States
2 District Court for the Central District of California.

3 While the Court is sympathetic to Plaintiff's situation, it will not proceed with a
4 telephonically evidentiary hearing. The issues at this hearing likely will turn on credibility
5 determinations and the Court must be able to observe Plaintiff's demeanor in person and
6 under effective cross-examination.

7 Furthermore, as Plaintiff has previously been advised, he does not have a right to
8 appointed counsel in this case (see ECF Nos. 57 & 62), and the Court will only seek
9 volunteer counsel under exceptional circumstances not present here. In any event,
10 representation by an attorney would not relieve Plaintiff of the obligation to be present for
11 examination and cross-examination at the hearing.

12 Finally, the federal venue statute requires that a civil action, other than one based
13 on diversity jurisdiction, be brought only in "(1) a judicial district where any defendant
14 resides, if all defendants reside in the same State, (2) a judicial district in which a
15 substantial part of the events or omissions giving rise to the claim occurred, or a
16 substantial part of the property that is the subject of the action is situated, or (3) a judicial
17 district in which any defendant may be found, if there is no district in which the action
18 may otherwise be brought." 28 U.S.C. § 1391(b). "For the convenience of the parties
19 and witnesses, in the interest of justice, a district court may transfer any civil action to
20 any other district or division where it might have been brought." 28 U.S.C. § 1404(a).
21 Plaintiff has not presented sufficient justification for a transfer of venue to the Central
22 District of California.

23 For the foregoing reasons, Plaintiff's motion is DENIED, without prejudice, in its
24 entirety. Plaintiff's personal appearance in the United States District Court for the
25 Eastern District of California, Fresno Division is required. The Court requests the
26 assistance and/or cooperation of Plaintiff's parole officer or other custodial authority in
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1 facilitating Plaintiff's attendance at the May 26, 2017 hearing. The Court is unable to
2 assist Plaintiff with the cost of travel.

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4 IT IS SO ORDERED.

5 Dated: April 25, 2017

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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