

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
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

SEMPILICO TOMAS,

Plaintiff,

No. C 14-5087 PJH (PR)

vs.

ORDER OF TRANSFER

CLIFF ALLENBY, et. al.,

Defendants.

Plaintiff, a civil detainee, has filed a civil rights action under 42 U.S.C. § 1983. He is civilly committed pursuant to California's Sexually Violent Predators Act (SVPA). See Cal. Welf. & Inst. Code 6600, et seq. Plaintiff is committed in Coalinga, CA which is located in the Eastern District of California. The underlying commitment proceeding originated in Santa Cruz County, which is in this district.

Plaintiff claims that the "assessment methodology" used by defendants – all current or former officials of California's Department of State Hospitals (formerly known as the Department of Mental Health) – pursuant to SVPA to hold and determine that an individual may not take part in outpatient treatment is unconstitutional. Plaintiff seeks declaratory relief and damages in the amount of \$10,000,000.

"Federal law opens two main avenues to relief on complaints related to imprisonment: a petition for habeas corpus, 28 U.S.C. § 2254, and a complaint under the Civil Rights Act of 1871, Rev. Stat. § 1979, as amended, 42 U.S.C. § 1983. Challenges to the lawfulness of confinement or to particulars affecting its duration are the province of habeas corpus." *Hill v. McDonough*, 547 U.S. 573, 579 (2006) (quoting *Muhammad v. Close*, 540 U.S. 749, 750 (2004)). "An inmate's challenge to the circumstances of his confinement, however, may be brought under § 1983." *Id.*

1 Habeas is the "exclusive remedy" for the prisoner who seeks "immediate or
2 speedier release" from confinement. *Skinner v. Switzer*, 131 S. Ct. 1289, 1293 (2011)
3 (quoting *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005)); see *Calderon v. Ashmus*, 523 U.S.
4 740, 747 (1998); *Edwards v. Balisok*, 520 U.S. 641, 648 (1997); *Preiser v. Rodriguez*, 411
5 U.S. 475, 500 (1973). "Where the prisoner's claim would not 'necessarily spell speedier
6 release,' however, suit may be brought under § 1983." *Skinner*, 131 S. Ct. at 1293 (quoting
7 *Wilkinson*, 544 U.S. at 82). As a consequence, challenges to prison conditions traditionally
8 have been cognizable only via § 1983, while challenges implicating the fact or duration of
9 confinement must be brought through a habeas petition. *Docken v. Chase*, 393 F.3d 1024,
10 1026 (9th Cir. 2004).

11 Although plaintiff is a civilly committed patient, rather than a criminally convicted
12 prisoner, the habeas versus § 1983 proper remedy distinction also applies. Compare
13 *Hubbart v. Knapp*, 379 F.3d 773, 779-81 (9th Cir. 2004) (upholding constitutionality of
14 SVPA against habeas challenge under 28 U.S.C. § 2254) with *Hydrick v. Hunter*, 669 F.3d
15 937, 941-42 (9th Cir. 2012) (accepting defendants' qualified immunity defense to civil
16 committees' § 1983 challenge to their conditions of confinement). Consequently, to the
17 extent that plaintiff seeks relief that would entitle him to immediate or earlier release from
18 his civil commitment, he must file a petition for a writ of habeas corpus under 28 U.S.C. §
19 2254 after exhausting state judicial remedies. See *Skinner*, 131 S. Ct. at 1293; see also
20 *Nelson v. Sandritter*, 351 F.2d 284, 285 (9th Cir. 1965) (constitutionality of state civil
21 commitment proceedings may be challenged in federal habeas corpus after state judicial
22 remedies have been exhausted). And to the extent that plaintiff seeks relief that may be
23 construed as not necessarily requiring speedier release from his civil commitment, his §
24 1983 action must be brought in the Eastern District of California, where plaintiff is civilly
25 committed at Coalinga State Hospital and where all named defendants reside. See 28
26 U.S.C. §§ 84(b), 1391(b).

27

28

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

Accordingly, this case is **TRANSFERRED** to the United States District Court for the Eastern District of California. See 28 U.S.C. § 1406(a). In view of the transfer, the court will not rule upon plaintiff's request for leave to proceed in forma pauperis.

IT IS SO ORDERED.

Dated: January 20, 2015.



PHYLLIS J. HAMILTON
United States District Judge

G:\PRO-SE\PJH\CR.14\Tomas5087.trn.wpd