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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HERBERT WILLMES,
Plaintiff,
v.
CLIFF ALLENBY, et al.,
Defendants.

Case No. [14-cv-05480-VC](#) (PR)

ORDER OF TRANSFER

United States District Court
Northern District of California

Herbert Willmes is a civil detainee at the Coalinga State Hospital ("Coalinga") proceeding *pro se*. Willmes is detained pursuant to California's Sexually Violent Predator Act ("SVPA") and has initiated an action under 42 U.S.C. § 1983, complaining about the conditions of his confinement at Coalinga. Defendants are officials of Coalinga and of the California Department of Corrections and Rehabilitation in Sacramento. Both Coalinga and Sacramento lie within the venue of the United States District Court for the Eastern District of California. Venue for this case therefore lies in the Eastern District. *See* 28 U.S.C. § 1391.

Willmes also complains about the validity of his assessment as a sexually violent predator under the SVPA, which took place in Santa Clara County. Challenges to the assessment itself are the province of a habeas petition, not a civil rights action, because they implicate the validity of his detention. *See Hill v. McDonough*, 547 U.S. 573, 579 (2006) (challenges to the lawfulness of confinement or to particulars affecting its duration are the province of habeas corpus); *Nelson v. Sandritter*, 351 F.2d 284, 285 (9th Cir. 1965) (constitutionality of state civil commitment proceedings are challenged in federal habeas corpus once state remedies have been exhausted). Willmes may challenge the validity of his assessment in this court, but he must do so by way of a habeas petition filed in a separate action from this civil rights case, after exhausting state judicial remedies.


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Accordingly, this case is transferred to the United States District Court for the Eastern District of California. *See* 28 U.S.C. 1404(a), 1406(a). In light of this transfer, the pending motion (dkt. 3) to proceed *in forma pauperis* is deferred to the Eastern District.

The Clerk shall transfer this matter immediately.

IT IS SO ORDERED.

Dated: January 26, 2015



VINCE CHHABRIA
United States District Judge