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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

SEAVON PIERCE,	)	Case No.: 1:15-cv-01941-LJO-BAM (PC)
Plaintiff,	)	
v.	)	ORDER DENYING PLAINTIFF’S MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO FRCP 60(b)
JONATHAN M. SMITH, et al.,	)	(ECF No. 9)
Defendants.	)	ORDER DENYING PLAINTIFF’S COMBINED MOTION FOR COURT TO MAKE DETERMINATION PURSUANT TO FRCP 19, 20, AND MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO FRCP 60(b)
	)	(ECF No. 10)
	)	

Plaintiff Seavon Pierce (“Plaintiff”), a state prisoner proceeding pro se, filed this action pursuant to 28 U.S.C. § 1361, on December 11, 2015. That same day, he also filed a motion for leave to proceed in forma pauperis. (ECF No. 2.) On January 11, 2016, the district judge denied Plaintiff’s motion for leave to proceed in forma pauperis, and dismissed this action without prejudice to refile with submission of the \$400,000 filing fee. (ECF No. 7.) Judgment was entered accordingly the same day. (ECF No. 8.)

On January 25, 2016, Plaintiff filed the instant motions for relief from the judgment in this action. (ECF Nos. 9, 10). In Plaintiff’s first motion, he argues that this court exceeded its jurisdiction to proceed upon his mandamus action because his claim is against residents of Washington, D.C., and

1 the parties have not consented to proceeding in the Eastern District of California. (ECF No. 9, p. 1). In  
2 Plaintiff's second motion, he elaborates upon this argument, stating that jurisdictional law requires  
3 matters to be restricted to the residence of the defendants. (ECF No. 10, p. 3.) Plaintiff further argues  
4 that the proper venue for his action is in the District Court for the District of Columbia. (Id. at 2.)

5 Plaintiff's arguments regarding jurisdiction and venue lack merit. Except for under certain  
6 circumstances which do not apply in this case, a mandamus action may be heard in a judicial district  
7 where either party resides, or where a substantial part of the events or omissions giving rise to the  
8 claim occurred. 28 U.S.C. § 1391(e); see Munns v. Kerry, 782 F.3d 402, 413 (9th Cir. 2015) ("Section  
9 1391(e) provides nationwide venue in the district courts for mandamus actions against federal officials  
10 . . . ."). Thus, venue is proper in this district, where Plaintiff was incarcerated and resided at the time  
11 he filed his complaint.

12 Furthermore, although Plaintiff states that he attacks the jurisdiction of this court to act in this  
13 case, his arguments all focus on venue. Venue and jurisdiction are distinct concepts; venue concerns  
14 the convenience of where an action will be heard, whereas jurisdiction deals with the limits of the  
15 federal courts to adjudicate certain types of cases. See Rouse v. Wachovia Mortg., FSB, 747 F.3d 707,  
16 710 n.3 (9th Cir. 2014). Plaintiff's arguments only center on whether and why his action should be  
17 heard in the District of Columbia instead of the Eastern District of California; he raises no arguments  
18 regarding why this court lacked jurisdiction to issue its judgment in his action.

19 Plaintiff also argues in his second motion that the three-strikes provision of 28 U.S.C. 1915(g)  
20 does not apply to this action because it was brought as a mandamus action. (ECF No. 10, pp. 1-2). The  
21 three-strikes provision of the Prison Litigation Reform Act in § 1915(g) applies to petitions for  
22 mandamus that are predicated on underlying civil claims, but not habeas corpus petitions. See  
23 Andrews v. King, 398 F.3d 1113, 1122-23 (9th Cir. 2005). See also In re Smith, 114 F.3d 1247, 1250  
24 (D.C. Cir. 1997) (same).

25 Here, Plaintiff's petition for mandamus pursuant to 28 U.S.C. 1361 seeks to have certain  
26 government officials take certain actions related to Plaintiff's previous civil rights lawsuits. In those  
27 prior civil rights lawsuits, Plaintiff made allegations concerning, among other things, excessive force,  
28 denial of medical treatment, and matters dealing with mail restrictions and confiscations. In this

1 mandamus action, Plaintiff seeks to have government officials investigate alleged frauds and  
2 corruptions related to his prior civil rights lawsuits, including the alleged removal of parties from his  
3 complaint, wrongful denial of counsel, failure to report certain matters to the Attorney General, and he  
4 further seeks a federal investigation into the constitutional violations he alleged in those underlying  
5 lawsuits. (ECF No. 1, pp. 1-3.) He also complains that the Ninth Circuit Court of Appeals has not  
6 properly reviewed or acted upon his prior lawsuits. (*Id.* at pp. 9-12, 14-16.) Thus, his mandamus action  
7 addresses underlying civil claims, and is not related to any habeas action. In these circumstances, it  
8 was appropriate for the district judge to apply the provisions of 28 U.S.C. § 1915(g) to this civil  
9 action.

10 Finally, Plaintiff argues in his second motion that the district judge erred by not making a  
11 determination regarding the joinder of parties under Federal Rule of Civil Procedure 19 or 20 prior to  
12 dismissing his action. (ECF No. 10, pp. 1, 3.) On the contrary, the determination of whether filing fees  
13 must be paid or whether Plaintiff could proceed in forma pauperis must be made before a case can  
14 proceed to further stages. Also, there has never been any motion for joinder of parties pending in this  
15 action, including before it was dismissed.

16 Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motions for relief from  
17 judgment in this action (ECF Nos. 9, 10) are DENIED.

18  
19 IT IS SO ORDERED.

20 Dated: February 8, 2016

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE