

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MAURICE P. OLIVIER,  
Plaintiff,  
v.  
SCOTT KERNAN,  
Defendant

Case No. 17-cv-04953-PJH

## ORDER VACTING DISMISSAL; REOPENING AND TRANSFERRING CASE

Re: Dkt. No. 9

This is a civil rights case brought pro se by a state prisoner. This case was dismissed without prejudice due to plaintiff's failure to file an in forma pauperis application. Plaintiff has since filed an in forma pauperis application, therefore the court will review the complaint.

Plaintiff alleges that he was denied early release by the Secretary of CDCR and prison officials at his facility, Pleasant Valley State Prison. The prison and the Secretary of the CDCR lie within the venue of the United States District Court for the Eastern District of California. Venue, therefore, properly lies in that district and not in this one. See 28 U.S.C. § 1391(b). Plaintiff also states that he is a member of a class action raising the same claims that was previously filed in this district, *Champ v. Kernan*, No. 17-cv-4779-RS. That case was transferred to the Eastern District for the same reasons on September 29, 2017.

The order of dismissal and judgment (Docket Nos. 7, 8) are **VACATED** and this case is **REOPENED**. This case is **TRANSFERRED** to the United States District Court for the Eastern District of California. See 28 U.S.C. § 1406(a).

1           In view of the transfer, the court will not rule upon plaintiff's motion to proceed in  
2 forma pauperis.

3           **IT IS SO ORDERED.**

4           Dated: 10/11/17

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8           PHYLLIS J. HAMILTON  
9           United States District Judge

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