

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**  
EASTERN DISTRICT OF CALIFORNIA

TONY BLACKMAN  
Plaintiff,

v.

JERRY BROWN, et al.,  
Defendants.

Case No. 1:18-cv-00633-AWI-SAB  
ORDER TRANSFERRING CASE TO THE  
SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff Tony Blackman is a state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed a complaint on May 9, 2018, naming 105 defendants. Based upon review of the complaint, Plaintiff is challenging his conditions of confinement at the R.J. Donovan Correctional Facility and the handling of his grievances.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b). The Court has reviewed Plaintiff’s complaint and finds that venue does not lie in this district as none of the venue requirements of section 1391 are met. The incidents alleged in the complaint took

1 place in San Diego County which is part of the Southern District of California. Venue in this  
2 action appropriately lies within the Southern District of California.

3 Pursuant to 28 U.S.C. § 1406(a), when a case has been filed in the wrong district, the  
4 “district shall dismiss, or if it be in the interest of justice, transfer such case to any district or  
5 division in which it could have been brought.” Additionally Local Rule 120(f), provides that a  
6 civil action which has not been commenced in the proper court may, on the court’s own motion,  
7 be transferred to the proper court. Therefore, this action will be transferred to the Southern  
8 District of California. The court notes that Plaintiff has previously been found to have been  
9 precluded from proceeding in forma pauperis under 28 U.S.C. § 1915(g) because on 3 or more  
10 prior occasions, while incarcerated or detained in any facility, he has brought an action or appeal  
11 in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or  
12 fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). Plaintiff has not  
13 filed an application to proceed in forma pauperis or paid the filing fee in this action.

14 Good cause appearing, IT IS HEREBY ORDERED that:

- 15 1. This action is transferred to the United States District Court for the Southern  
16 District of California;
- 17 2. Plaintiff has previously been found, on three or more occasions, to have brought  
18 actions or filed appeals that were dismissed as frivolous, malicious, or failed to  
19 state a claim upon which relief may be granted and has not filed an application to  
20 proceed in forma pauperis or paid the filing fee in this action.

21 IT IS SO ORDERED.

22 Dated: May 14, 2018

23   
24 \_\_\_\_\_  
25 UNITED STATES MAGISTRATE JUDGE  
26  
27  
28