

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

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL JASON WARE,

Plaintiff,

No. CIV S-10-1322 KJM P

vs.

ANTHONY HEDGPETH, Warden,

Defendant.

ORDER

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

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 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).

////

1 In this case, none of the defendants reside in this district. The claim arose in  
2 Monterey County, which is in the Northern District of California. Therefore, plaintiff's claim  
3 should have been filed in the United States District Court for the Northern District of California.  
4 In the interest of justice, a federal court may transfer a complaint filed in the wrong district to the  
5 correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir.  
6 1974).

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. This court has not ruled on plaintiff's request to proceed in forma pauperis;  
9 and

10 2. This matter is transferred to the United States District Court for the Northern  
11 District of California.

12 DATED: June 10, 2010.

13   
14 U.S. MAGISTRATE JUDGE

15 /mp  
16 ware1322.21

17  
18  
19  
20  
21  
22  
23  
24  
25  
26