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

MICHAEL WARE,

Plaintiff,

No. 2:10-v-1517 KJN P

vs.

WARDEN ANTHONY HEDGPETH,
et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding without counsel, 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; and
- 9 2. This matter is transferred to the United States District Court for the Northern
10 District of California.

11 DATED: June 24, 2010

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16 KENDALL J. NEWMAN
17 UNITED STATES MAGISTRATE JUDGE

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