IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DALE HAWKINS,

Plaintiff, No. CIV S-10-1544 DAD P

vs.

A. HEDGPETH, et al.,

Defendants. ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983,[1] together with a request to proceed in forma pauperis. In light of the 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]Although plaintiff filed his claim on the form for a writ of habeas corpus petition, the court is construing this as a civil rights action brought pursuant to 42 U.S.C. § 1983.

In this case, all of the named defendants are located, and plaintiff's claim arose, in Monterey County, which is located within the Northern District of California. Therefore, plaintiff's complaint should have been filed in the United States District Court for the Northern District of California. In the interest of justice, a federal court may transfer a complaint filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

Accordingly, IT IS HEREBY ORDERED that:

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

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

DATED: June 25, 2010.

DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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