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

WILLIE J. KELLY,	)	No. C 09-0774 JSW (PR)
	)	
Plaintiff,	)	<b>ORDER OF TRANSFER</b>
	)	
vs.	)	
	)	
E. M. YETT, JOHN MARSHALL, PAUL	)	(Docket Nos. 2, 5)
FURNARI, S. R. STINSON, T. FIFIELD, L.)	)	
WARREN, T. LOCKWOOD,	)	
	)	
Defendants.	)	

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Plaintiff, a California prisoner incarcerated at the Correctional Training Facility in Soledad, California, has filed this civil rights action under 42 U.S.C. § 1983 regarding the conditions of his confinement while incarcerated at the California Men’s Colony in San Luis Obispo, California. San Luis Obispo, California is located in San Luis Obispo County, which is within the venue of the United States District Court for the Central District of California. Plaintiff alleges that the events in the complaint took place at and all of the Defendants work at California Men’s Colony, except for two Defendants who work in Sacramento, California.


When jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the 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). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the

1 case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. §  
2 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet  
3 filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790  
4 F.2d 1486, 1488 (9th Cir. 1986).

5 Plaintiff brings his claims about actions taken in San Luis Obispo County, within  
6 the venue of the Central District of California. *See* 28 U.S.C. § 84. Accordingly, IT IS  
7 ORDERED in the interest of justice, and pursuant to 28 U.S.C. § 1406(a), that this action  
8 be TRANSFERRED to the United States District Court for the Central District of  
9 California. In light of the transfer, the Court will not resolve Petitioner’s pending  
10 motions to proceed *in forma pauperis* (docket nos. 2, 5). The Clerk of the Court shall  
11 transfer this matter forthwith and terminate docket numbers 2 and 5 from this Court’s  
12 docket.

13 IT IS SO ORDERED.

14 DATED: May 26, 2009

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17 JEFFREY S. WHITE  
18 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 WILLIE J. KELLY,  
6  
7 Plaintiff,

Case Number: CV09-00774 JSW

**CERTIFICATE OF SERVICE**

8 v.

9 E.M. YETT et al,  
10 Defendant.  
\_\_\_\_\_ /

11  
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

13 That on May 26, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said  
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
15 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
16 receptacle located in the Clerk's office.

17 Willie J. Kelly  
18 J38466  
19 P.O. Box 689  
20 Soledad, CA 93960

21 Dated: May 26, 2009



Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk

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