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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

SHAUN ROSIERE,
Plaintiff,
v.
UNITED STATES OF AMERICA,
Defendant.

Case No. [16-cv-02765-LB](#)
**ORDER TRANSFERRING CASE TO
DISTRICT OF NEVADA**
Re: ECF No. 12

INTRODUCTION AND BACKGROUND

This is a Freedom of Information Act (“FOIA”) case.¹ Shaun Rosiere, proceeding *pro se* and *in forma pauperis*, requested Department of Justice records relating to two criminal cases and one civil case (case numbers 1:08-cr-00629, 1:09-00720, and 1:05-cv-02589).² The documents are located in Trenton, New Jersey, and Denver, Colorado.³ Although Mr. Rosiere submitted his FOIA requests between March 24 and April 6, 2016, the government has not responded.⁴ Mr. Rosiere therefore initiated this suit.⁵

¹ Compl. — ECF No. 1. Record citations refer to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-generated page numbers at the top of documents.
² *Id.* ¶ 1, Exs. 1–6.
³ *Id.* Exs. 1–6.
⁴ *Id.* ¶ 2–3, Exs. 1–6.
⁵ *See generally id.*

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ANALYSIS

Venue is generally governed by 28 U.S.C. § 1391, but FOIA has its own venue provision and thus § 1391 does not apply. *See Johnson v. Payless Drug Stores Northwest, Inc.*, 950 F.2d 586, 587-88 (9th Cir. 1991) (applying Title VII venue provision instead of section 1391); *Keen v. Federal Bureau of Investigation*, No. C 97-2657 TEH, 1997 WL 671711, *1 (N.D. Cal. Oct. 17, 1991). In FOIA cases, then, venue is proper in: (1) the district where the plaintiff resides or has his principal place of business; (2) the district where the records at issue are located; or (3) the District of Columbia. *See* 5 U.S.C. § 552(a)(4)(B).

Here, venue is not proper in the Northern District of California. Mr. Rosiere appears to reside in Las Vegas, Nevada: he provides a Las Vegas mailing address on his court filings.⁷ The government argues that the Northern District is not Mr. Rosiere’s business’s principal place of business, and he does not provide any information to believe otherwise.⁸ By Mr. Rosiere’s own complaint, the records he seeks are located in Colorado and New Jersey, and thus not in the Northern District (or the District of Columbia).⁹ Mr. Rosiere requests leave to amend his complaint in response to the government’s motion.¹⁰ He does not, however, provide any indication that he could amend his complaint — which seeks documents only in New Jersey and Colorado — to make venue proper in this district.¹¹

In the interest of justice, instead of dismissing the case, the court transfers it to the District of Nevada, where Mr. Rosiere resides.

* * *

⁷ *See* Compl. at 3; Notice — ECF No. 21 at 1, 2; Notice — ECF No. 24 at 1; Declination — ECF No. 31 at 2.
⁸ Motion to Dismiss or Transfer at 5–6; Motion to Amend Compl. — ECF No. 28.
⁹ Compl., Exs. 1–6.
¹⁰ Motion to Amend Compl. — ECF No. 28.
¹¹ *See id.*

CONCLUSION

The court transfers the case to the District of Nevada.

IT IS SO ORDERED.

Dated: September 27, 2016



LAUREL BEELER
United States Magistrate Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHAUN ROSIERE,
Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

Case No. 3:16-cv-02765-LB

CERTIFICATE OF SERVICE


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

That on September 27, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Shaun Rosiere
7380 S. Eastern Ave.
Ste #124265
Las Vegas, NV 89123

Dated: September 27, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
Lashanda Scott, Deputy Clerk to the
Honorable LAUREL BEELER