

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 HORACE BELL,
9 Petitioner,
10 v.
11 A HEDGPETH,
12 Defendant.

No. 08-03770 CW

ORDER
TRANSFERRING CASE
TO UNITED STATES
DISTRICT COURT
FOR THE EASTERN
DISTRICT OF
CALIFORNIA

13 _____/
14
15 On August 6, 2008, Petitioner Horace Bell, an inmate at Kern
16 Valley State Prison (KVSP) in Delano, California, filed a petition
17 for writ of mandamus. On June 12, 2009, the Court issued an Order
18 of Dismissal with Leave to Amend in which it stated that it could
19 not fairly evaluate the petition in its present state and that it
20 was not apparent that Petitioner intended to file a petition for
21 writ of habeas corpus rather than a civil rights complaint under 42
22 U.S.C. § 1983 challenging the conditions of his confinement. The
23 Court noted that Petitioner is incarcerated at KVSP which lies
24 within the venue of the Eastern District of California and that
25 claims seeking damages from KVSP employees for violating
26 Petitioner's civil rights must be filed in the United States
27 District Court for the Eastern District of California. The Court
28 dismissed the petition with leave to amend.

1 on January 14, 2010, after being granted an extension of time,
2 Petitioner filed an amended petition. On February 22, 2010, he
3 filed a summary of exhibits for the amended petition. Where the
4 form petition requires the listing of all claims, Petitioner has
5 written: claim one, cruel and unusual punishment; claim two,
6 inhumane oppressive treatment; and claim three, discrimination
7 under the Americans with Disabilities Act. Petitioner indicates
8 that further detail is provided in the attached documents. The
9 exhibits indicate that these three claims address the conditions of
10 Petitioner's confinement at KVSP.

11 Plaintiff's claims regarding the deprivation of his civil
12 rights at KVSP are properly brought in the Eastern District of
13 California. See 28 U.S.C. § 1391(b). Plaintiff's case is,
14 therefore, transferred to the Eastern District. See In re Hall,
15 939 F.2d 802, 804 (9th Cir. 1991) (district court has discretion to
16 either transfer or dismiss without prejudice claims brought in
17 wrong venue). The Clerk of the Court shall transfer the case
18 forthwith.

19
20 IT IS SO ORDERED.

21
22 DATED: 4/19/2010

23 
CLAUDIA WILKEN
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 HORACE BELL,

5 Plaintiff,

6 v.

7 A HEDGPETH et al,

8 Defendant.

Case Number: CV08-03770 CW

CERTIFICATE OF SERVICE

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

11 That on April 19, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
14 located in the Clerk's office.

15 Horace A. Bell #J-42454
16 Kern Valley State Prison
17 C4-120
18 P O Box 6000
19 Delano, CA 93216

20 Dated: April 19, 2010

21 Richard W. Wieking, Clerk
22 By: Sheilah Cahill, Deputy Clerk
23
24
25
26
27
28