

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 JAMES EVANS, JR.,

No. C 10-00588 SBA (PR)

4 Plaintiff,

ORDER OF TRANSFER

5 v.

6 EDMUND G. BROWN, JR., et al.,

7 Defendants.
8 _____/

9 This case was opened when Plaintiff, who is incarcerated at the California State Prison-
10 Corcoran, filed a document entitled, "Government Officials and Government State Employees
11 Violated State and Federal Laws/Criminal Complaint." His first motion for appointment of counsel
12 has been denied, and he has been granted leave to proceed in forma pauperis. Petitioner has also
13 filed several other various motions (docket nos. 5, 20, 22, 23).

14 Plaintiff seems to challenge the conditions of his confinement at his former place of
15 incarceration, California State Prison-Solano, stemming from an incident on November 8, 2008,
16 stating:

17 Then on (11-8-07), CDC&R Officials lured me out of my cell under false
18 pretense by stating, "I was being immediately transferred back to Santa Clara
County."

19 Once I was out of my cell, I was bumrushed by 7-10 CDC&R officers, slammed
20 to the ground, gagged, outfitted with a mask, and transferred to my current
location on a vacated sentence.

21 (Pl.'s Pleading at 3.) Therefore, the Clerk of the Court classified this case on the docket as a civil
22 rights action. See Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights action is proper
23 method of challenging conditions of confinement). However, Plaintiff's pleading is difficult to
24 understand because he also seems to challenge the execution of his sentence by stating, "For 18
25 months, this was my case, I did not have a lawful abstract of judgment sentence to justify prison
26 commitment." (Pl.'s Pleading at 3.)

27 If this case is treated as a civil rights case, the proper venue would be the Eastern District of
28 California, where the defendants from California State Prison-Solano (in Solano County) would be

1 found and where the claims arose. See 28 U.S.C. § 1391(b). If the case is treated as a habeas case,
2 Plaintiff's claims may involve a challenge to the execution of his sentence. Such claims are
3 preferably heard in the district of confinement, Habeas L.R. 2254-3(a); Dunne v. Henman, 875 F.2d
4 244, 249 (9th Cir. 1989), and Plaintiff is confined at California State Prison-Corcoran in Kings
5 County, which is located in the Eastern District of California. The Court therefore need not resolve
6 whether this should be treated as a habeas case or a civil rights case, because either way the
7 preferable venue is not this Court, but rather the Eastern District of California court.

8 This case therefore is TRANSFERRED to the United States District Court for the Eastern
9 District of California. See 28 U.S.C. § 1404(a).

10 All remaining motions are TERMINATED on this Court's docket as no longer pending in
11 this district.

12 IT IS SO ORDERED.

13 DATED: 9/10/10

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SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES EVANS JR.,

Plaintiff,

v.

/ et al,

Defendant.

Case Number: CV10-00588 SBA

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 10, 2010, 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.

James Evans F-06497
California State Prison - Corcoran
P.O. Box 8800
Corcoran, CA 93212-8309

Dated: September 10, 2010

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk