

1 February 2009, CCI institutional gang investigators T. Crouch and
2 J. Tyree, and CCI appeals coordinator K. Sampson, retaliated
3 against him for his lawsuit by revalidating Plaintiff as a gang
4 member based on false evidence allegedly found by Cerrini in
5 Plaintiff's cell at SQSP. Additionally, Plaintiff complains that
6 after he was revalidated based on such evidence, he filed an
7 administrative appeal at SQSP asking for the evidence to be removed
8 from his file, but SQSP institutional gang investigator E. Patao
9 and SQSP correctional lieutenant T. Amrhein-Conama retaliated
10 against him by refusing to do so. Plaintiff seeks monetary damages
11 and equitable relief.

12 Venue may be raised by the court sua sponte where the
13 defendant has not filed a responsive pleading and the time for
14 doing so has not run. See Costlow v. Weeks, 790 F.2d 1486, 1488
15 (9th Cir. 1986). When jurisdiction is not founded solely on
16 diversity, venue is proper in (1) the district in which any
17 defendant resides, if all of the defendants reside in the same
18 state; (2) the district in which a substantial part of the events
19 or omissions giving rise to the claim occurred, or a substantial
20 part of the property that is the subject of the action is situated;
21 or (3) a judicial district in which any defendant may be found, if
22 there is no district in which the action may otherwise be brought.
23 See 28 U.S.C. § 1391(b).

24 In the present action, Plaintiff alleges facts concerning
25 defendants and events in two different judicial districts.
26 Specifically, SQSP is located in Marin County in the Northern
27 District of California, and CCI is located in Kern County in the
28 Eastern District of California. See 28 U.S.C. § 84(a),(b).

1 Consequently, under § 1391(b), venue is proper in either district.
2 Where, however, an alternative forum with greater relation to the
3 defendants or the action exists than the forum in which the action
4 was filed, the action may be transferred to such alternative forum
5 "[f]or the convenience of parties and witnesses, in the interest of
6 justice." See 28 U.S.C. § 1404(a).

7 Here, the Court concludes the Eastern District would be a more
8 convenient forum because Plaintiff is incarcerated at CCI in the
9 Eastern District, the Defendants responsible for Plaintiff's
10 revalidation as a gang member all are employed at CCI, the decision
11 to rely on the alleged false report by Cerrini and to revalidate
12 Plaintiff as a gang member was made by Defendants at CCI,
13 Plaintiff's retaliation claim against Cerrini is in large part
14 based on Cerrini's alleged falsification of the report relied upon
15 to revalidate Plaintiff, and Plaintiff's claims against the two
16 SQSP Defendants other than Cerrini stem from Plaintiff's
17 unsuccessful attempts to have those Defendants remove Cerrini's
18 report from Plaintiff's file.

19 Accordingly, IT IS ORDERED in the interest of justice and for
20 the convenience of both the parties and the witnesses, and pursuant
21 to 28 U.S.C. § 1404(a), that this action be TRANSFERRED to the
22 United States District Court for the Eastern District of
23 California.

24 The Clerk of the Court shall transfer this matter forthwith.

25 IT IS SO ORDERED.

26 DATED: 10/5/2011

27 
28 CLAUDIA WILKEN
United States District Judge

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

4 EDIN A. CHACON,

5 Plaintiff,

6 v.

7 J. CERRINI et al,

8 Defendant.

Case Number: CV11-00122 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 October 5, 2011, 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 Edin A. Chacon K-30713
16 California Correctional Institution
17 4B/6B 105L
18 P.O. Box 1906
19 Tehachapi, CA 93581

20 Dated: October 5, 2011

21 Richard W. Wieking, Clerk
22 By: Nikki Riley, Deputy Clerk
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