

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

3  
4                    RENE OSWALD COBAR,

No. C 12-02920 CW (PR)

5                                    Plaintiff,

ORDER OF TRANSFER

6                                    v.

7                    U.S. DEPARTMENT OF JUSTICE,

8                                    Defendant.  
9

10 \_\_\_\_\_/

11                    Plaintiff, a federal prisoner, has filed a pro se complaint  
12 under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, in  
13 which he seeks access to certain documents in the possession of the  
14 Drug Enforcement Administration (DEA) in its FOI/Records Management  
15 Section in Virginia. Plaintiff was convicted in Las Vegas, Nevada,  
16 and is incarcerated at the Federal Correctional Institution (FCI)  
17 in Oakdale, Louisiana.

18                    Under the FOIA, an agency may be sued in the district where  
19 the plaintiff resides or has his principal place of business, or in  
20 the district where the records are located, or in the District of  
21 Columbia. 5 U.S.C. § 552(a)(4)(B). In this case, Plaintiff  
22 resides at FCI Oakdale, in Louisiana. Further, Plaintiff maintains  
23 that the records he seeks are located at the DEA's FOI/Records  
24 Management Section in Virginia. Therefore, venue is not proper in  
25 this district.

26                    When venue is improper, the district court has the discretion  
27 either to dismiss the case or transfer it "in the interest of  
28 justice." 28 U.S.C. § 1406(a). Orders respecting venue are

1 interlocutory in nature and are not appealable prior to final  
2 judgment. Pacific Car & Foundry Co. v. Pence, 403 F.2d 949 (9th  
3 Cir. 1968).

4 In the interest of justice and pursuant to 28 U.S.C.  
5 § 1406(a), the Court finds it proper to transfer this action to the  
6 district in which Plaintiff resides. Accordingly, this action is  
7 hereby TRANSFERRED to the Western District of Louisiana, wherein  
8 FCI Oakdale is located. 28 U.S.C. § 98(c).

9 The Clerk of the Court shall transfer the case forthwith.

10 IT IS SO ORDERED.

11 Dated: 6/21/2012

  
\_\_\_\_\_  
CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE