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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

HON LAU,

Plaintiff,

No. CIV S-09-3481 KJM P

vs.

MATTHEW CATE, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought." 28 U.S.C. § 1391(b).

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1 In this case, none of the defendants resides in this district. According to  
2 plaintiff's allegations, the claim appears to have arisen after he was transferred from Corcoran  
3 State Prison to the R.J. Donovan Correctional Facility in San Diego, California. San Diego is in  
4 the Southern District of California. Therefore, plaintiff's claim should have been filed in the  
5 United States District Court for the Southern District of California. In the interest of justice, a  
6 federal court may transfer a complaint filed in the wrong district to the correct district. See 28  
7 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. This court has not ruled on plaintiff's request to proceed in forma pauperis;  
10 and

11 2. This matter is transferred to the United States District Court for the Southern  
12 District of California.

13 DATED: January 22, 2010.

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15 U.S. MAGISTRATE JUDGE

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