

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF CALIFORNIA

4 DAVID HALLER,
5 Plaintiff,

Case No.: 15cv1444 BTM (DHB)

6 v.

**ORDER GRANTING MOTION TO
TRANSFER VENUE**

7 RAYMOND E. MAYBUS,
Secretary of the Navy,
8 Defendant.

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10 On October 13, 2015, Defendant Raymond Maybus filed a motion to
11 transfer the instant case to the District of Arizona. (ECF No. 11.) Plaintiff David
12 Haller did not file an opposition brief. For the reasons discussed below,
13 Defendant's motion is **GRANTED**.

14 **I. BACKGROUND**

15 Plaintiff's Complaint includes allegations of sexual harassment and
16 employment discrimination in violation of Title VII. The alleged violations took
17 place while Plaintiff worked as a motorcycle rider coach at the Marine Corps Air
18 Station in Yuma, Arizona ("MCAS Yuma"). (Compl. ¶¶ 9-13.) Following the
19 alleged discrimination, Plaintiff filed a complaint with the Equal Employment
20 Opportunity Commission ("EEOC"). (Compl. 22.) The EEOC mailed its decision

1 to dismiss Plaintiff's case on April 16, 2015, and Plaintiff subsequently filed this
2 action on June 1, 2015. (Compl. ¶ 22.)

3 Defendant moves to transfer venue on the grounds that the alleged events
4 took place in Arizona and that Plaintiff would have continued to work in Arizona
5 but-for the alleged employment practice.

6 7 **II. DISCUSSION**

8 Title VII includes a venue provision¹ that authorizes suit in any district (1)
9 where the unlawful employment practice was committed; (2) where the
10 employment records are kept; and (3) where the plaintiff would have worked but-
11 for the alleged discrimination. 42 U.S.C. § 2000e-5(f)(3). See also Passantino v.
12 Johnson & Johnson Consumer Prods., Inc., 212 F.3d 493, 504 (9th Cir. 2000).
13 The statute goes on to state that, "if the [defendant] is not found within any such
14 district, such an action may be brought [where] the [defendant] has his principle
15 office." 42 U.S.C. § 2000e-5(f)(3).

16 Here, the District of Arizona, not the Southern District of California, is the
17 proper venue. Plaintiff notes in his complaint that the alleged sexual harassment

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20 ¹ Title VII's venue provision applies over the general venue statute, 28 U.S.C. § 1391, because the "shall govern" language in § 2000e-5(f) renders Title VII's venue provisions mandatory. See Johnson v. Payless Drug Stores Nw., Inc., 950 F.2d 586, 587-88 (9th Cir. 1991).

1 occurred in Arizona while he was employed as a motorcycle riding coach at
2 MCAS Yuma. Moreover, as Defendant notes, the record supports the conclusion
3 that Plaintiff would have continued working at MCAS Yuma but-for the alleged
4 unlawful acts.

5 As for the district where the records are kept, Defendant submits the
6 declaration of Erin Carroll, the Director of the Human Resources Office at MCAS
7 Yuma, to demonstrate that the official personnel records are kept in an electronic
8 database. This database is used for human resource functions at the
9 headquarters in Washington, the regional Office of Civilian Human Resources,
10 and at MCAS Yuma. Even though the records are electronic and accessible in
11 multiple districts, the Southern District of California is not a proper venue under
12 the statute because, if nothing more, the employment records were created in
13 Arizona. The facts that the alleged violations took place in Arizona, and that
14 Plaintiff would have continued working in Arizona but-for the alleged employment
15 practices, make the District of Arizona the proper venue for this Title VII case.

17 **III. CONCLUSION**

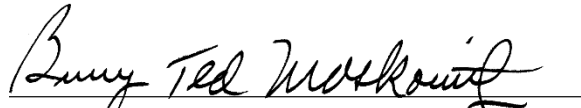
18 When a plaintiff files a case “laying venue in the wrong division or district,”
19 the district court “shall dismiss, or if it be in the interest of justice, transfer such
20 case to any district or division in which it should have been brought.” 28 U.S.C. §

1 1406(a). Although the Court has the authority to dismiss the instant case, the
2 Defendant moves for transfer of venue, not dismissal.

3 For the reasons discussed above, Defendant's motion to transfer venue is
4 **GRANTED.** The Clerk shall **TRANSFER** the instant action to the United States
5 District Court for the District of Arizona.

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7 **IT IS SO ORDERED.**

8 Dated: April 5, 2016

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10 Barry Ted Moskowitz, Chief Judge
11 United States District Court
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