

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**KING GEORGE MURRAY, III  
VERSUS  
OUACHITA PARISH DISTRICT  
ATTORNEY OFFICE, ET AL.**

**CIVIL ACTION  
NO: 09-3246  
SECTION: "S" (1)**

**ORDER AND REASONS<sup>1</sup>**

**IT IS HEREBY ORDERED** that the Motion to Dismiss, Premised Upon Prescription and Failure to State a Claim Under Rule 12(b) and Objection to Venue filed by defendants Jerry L. Jones and Stephen Sylvester (Doc. #6) is **GRANTED**, and plaintiff's complaints are dismissed.

This matter comes before the court on a motion to dismiss filed by defendants Jerry L. Jones, mis-named as the Ouachita Parish District Attorney Office, and Stephen Sylvester. Defendants argue that the plaintiff's claims should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) because he has not sufficiently alleged an action or omission by a defendant, committed

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<sup>1</sup> Plaintiff filed three separate actions, Civil Action Nos. 09-3245, 09-3246, and 09-3247, in which he alleges that the defendants violated his civil rights and committed various torts in connection with his arrest and prosecution for oral sexual battery. Also, in Civil Action No. 09-3245, plaintiff challenges the constitutionality of the Louisiana Sex Offender Registration Act, Louisiana Revised Statutes §15:540, *et seq.* The defendants to Civil Action No. 09-3245 are the State of Louisiana, Jerry Jones, Stephen Sylvester, Don Bartley, and the Monroe City Police Department. The defendants to Civil Action No. 09-3246 are Jerry Jones and Stephen Sylvester. The defendants to Civil Action No. 09-3247 are Don Bartley and the Monroe City Police Department.

under color of law, that caused a violation of his federally protected rights. Defendants also contend that they are entitled to absolute immunity, and that plaintiff's claims have prescribed. Further, defendants argue that this case should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(3) due to improper venue.

Plaintiff filed this action seeking monetary damages under 42 U.S.C. §1983 for the defendants' alleged violations of his civil rights in connection with his conviction for oral sexual battery in the Fourth Judicial District Court for the Parish of Ouachita, State of Louisiana. All of defendants' alleged actions occurred in Ouachita Parish, and in their official capacities as employees of the Ouachita Parish District Attorneys Office. Ouachita Parish is in the Western District of Louisiana.

Pursuant to 28 U.S.C. §1391(b):

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, 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 (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.


If venue is wrongly laid, the court "shall dismiss, or it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. §1406(a). Where a public official is a party to an action in his official capacity, he resides in the judicial district where he maintains his official residence, that is where he performs his official duties. O'Neill v. Battisti, 472

F.2d 789, 791 (6th Cir. 1972), cert. denied, 93 S.Ct. 2142 (1973) (quoting 1 MOORE'S FEDERAL PRACTICE 1487-88).

Here, all of the defendants are citizens of Louisiana. Because plaintiff sued Defendants Jones and Sylvester in their official capacities as employees of the Ouachita Parish District Attorneys Office, defendants Jones and Sylvester reside in Ouachita Parish. The Western District of Louisiana is the appropriate venue for this action. After considering the arguments of the parties and the facts of this case, the court finds that dismissal is warranted.

**IT IS HEREBY ORDERED** that the Motion to Dismiss, Premised Upon Prescription and Failure to State a claim under Rule 12(b) and Objection to Venue filed by defendants Jerry L. Jones and Stephen Sylvester (Doc. #6) is **GRANTED**, and plaintiff's complaints are dismissed.

New Orleans, Louisiana, this 21<sup>st</sup> day of January, 2010.

  
MARY ANN VIAL LEMMON  
UNITED STATES DISTRICT JUDGE