

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TONY X BAY, et al,

Plaintiffs,

v.

CASE NO. 2:09-CV-15008
HONORABLE AVERN COHN

PATRICIA CARUSO, et al.,

Defendants.

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**ORDER TRANSFERRING CASE TO THE UNITED STATES
DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN**

I.

This is a pro se prisoner civil rights case under 42 U.S.C. § 1983 and other statutes. The complaint names 93 Michigan prisoners currently confined at various state prisons, 76 of whom are confined at prisons located within the Western District of Michigan and 17 of whom are confined at prisons located within the Eastern District of Michigan. The defendants are 54 employees of the Michigan Department of Corrections. The complaint states that 49 of the defendants are employed in Lansing, Munising, Marquette, and Kincheloe, Michigan, but does not indicate where the other five defendants are employed. The complaint concerns conditions of confinement and appears to primarily involve the prisoners placement and treatment while in segregation in various prisons from 1999 to 2008. For the reasons that follow, the case will be transferred to the United States District Court for the Western District of Michigan.

II.

The proper venue for civil actions in which jurisdiction is not based on diversity of citizenship is the judicial district where: (1) any defendant resides if all defendants reside in the same state; (2) a substantial part of the events or omissions giving rise to the claim occurred or a substantial part of the property in question is situated; or (3) any defendant may be found if there is no other district in which plaintiff may bring the action. 28 U.S.C. § 1391(b). Public officials “reside” in the county where they serve. See O'Neill v. Battisti, 472 F.2d 789, 791 (6th Cir. 1972). Under 28 U.S.C. § 1404(a), a district court may transfer a civil action to any other district where it might have been brought for the convenience of the parties and witnesses, in the interest of justice.

Having reviewed the complaint, the Court finds that the Western District of Michigan is a more convenient and appropriate forum for this action. The 49 defendants for whom addresses have been provided reside in Alger, Chippewa, Ingham, and Marquette Counties for purposes of the present complaint. A substantial part of the conduct giving rise to the complaint also appears to have occurred in those counties. Additionally, 76 of the 93 plaintiffs reside in Alger, Baraga, Chippewa, Ionia, Manistee, Marquette, and Muskegon Counties. The identified counties lie in the Southern and Northern Divisions of the Western District of Michigan. See 28 U.S.C. § 102(b).

III.

Accordingly, for the reasons stated above, the Clerk of the Court shall TRANSFER this case to the United States District Court for the Western District of Michigan. See 28 U.S.C. §§ 1391(b) and 1404(a).

SO ORDERED.

Dated: January 26, 2010

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to see attached on this date, January 26, 2010, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160

**09-15008 Bay, et al v. Caruso, et al
CERTIFICATE OF SERVICE**

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13924 Wadaga Road
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Xavier Lnu Aka David Gleese, 208526
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Alonzo Chaney, 253484
Baraga Maximum Correctional Facility
13924 Wadaga Road
Baraga, MI 49908

Jameel Taylor, 249804
Baraga Maximum Correctional Facility
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Steve Graham, 193576
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