UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION

RODGER SERATT,)
Plaintiff,)
)
V.)
)
CITY OF MARION, ILLINOIS,)
)
Defendant.)

No. 1:11CV95 SNLJ

MEMORANDUM AND ORDER

This matter is before the Court upon its own motion. Plaintiff has filed this action against the City of Marion, Illinois, to enjoin the city from enforcing a local ordinance prohibiting the sale of synthetic cannabis, which plaintiff claims to be a distributor of.

This action may "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). None of the requirements of § 1391(b) are present in this District. As a result, venue does not lie in the Eastern District of Missouri.

Under 28 U.S.C. § 1406(a), "[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss . . ." As a result, the Court will dismiss this action without prejudice.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1406(a).

IT IS FURTHER ORDERED that plaintiff's motion for a temporary restraining order is **DENIED** as moot.

An Order of Dismissal shall be filed with this Memorandum and Order.

Dated this 1st day of June, 2011.

STEPHEN N. ĽÍMBAUGH, JŔ. UNITED STATES DISTRICT JUDGE