

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NICHOLAS SMITH,)	
)	
Plaintiff,)	
)	
v.)	No. 4:17-CV-2738 ACL
)	
DOUGLAS J. PRUDDEN, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER OF TRANSFER

This matter is before the Court upon review of the complaint filed by plaintiff Nicholas Smith, an inmate at the Tipton Correctional Center in Tipton, Missouri. This case will be transferred to the United States District Court for the Western District of Missouri.

Plaintiff brings this case against Douglas J. Prudden, Warden of the Tipton Correctional Center; Major Jeffrey Falkenrant; and Correctional Officers [Unknown] Hammond, [Unknown] Hurlburt, [Unknown] Scott, [Unknown] Mathias, [Unknown] Witt, [Unknown] Chastain, and [Unknown] Bass alleging violation of his civil rights under 42 U.S.C. § 1983. Plaintiff claims he is a “custody level one” inmate forced to live in a “custody level five” prison. Plaintiff’s claims arise entirely from events occurring during his incarceration in Tipton Correctional Center in Tipton, Missouri, which is located in Moniteau County in the Western District of Missouri. *See* 28 U.S.C. § 105(b)(4).

Under 28 U.S.C. § 1391(b), an action of this type may be brought only in: “(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (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 subject of the

action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action."

Because the events or omissions giving rise to plaintiff's claims occurred in the Western District of Missouri, venue is proper there. 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, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." Here, the Court concludes that it is in the interest of justice to transfer this case to the United States District Court for the Western District of Missouri. In addition, in light of all of the circumstances, the Court believes it best if the transferee district address plaintiff's motion for appointment of counsel.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall **TRANSFER** this case to the United States District Court for the Western District of Missouri. *See* 28 U.S.C. § 1406(a).

Dated this 27th day of November, 2017.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE