

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE: THOMAS CLAY
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TRANSFER ORDER

16 Civ. 4240 (BMC)

Plaintiff Thomas Clay, who is presently incarcerated at the Elmira Correctional Facility (“Elmira”), filed a series of letters to the Court in which he complains of his treatment while in custody at Elmira. Specifically, he complains of sexual abuse at the hands of Correction Officer Percy Bird, Correction Officer Smitty, and others. Although unclear, it appears that plaintiff is seeking to be released from custody. The Court liberally construes plaintiff’s letters as a complaint and, without offering any opinion on the merits of plaintiff’s claims, the instant complaint must be transferred to the United States District Court for the Western District of New York.

Under 28 U.S.C. § 1391, a civil rights action may be brought 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 the property that is the 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.

28 U.S.C. § 1391(b).

As a substantial part of the events or omissions giving rise to these claims occurred at Elmira Correctional Facility, located in Elmira, New York, in Chemung County, the Clerk of

Court is hereby directed to transfer this action to the United States District Court for the Western District of New York. 28 U.S.C. §§ 1391(b); 1406(a).

No summons shall issue from this Court. The Court notes that plaintiff did not file an application to proceed *in forma pauperis* or a Prison Litigation Reform Act authorization form. That provision of Rule 83.1 of the Local Rules of the Eastern District of New York which requires a seven day delay is waived.

SO ORDERED.

Digitally signed by Brian
M. Cogan 

U.S.D.J.

Dated: Brooklyn, New York
August 5, 2016