

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

EDGAR MALDONADO-ARCE, et al.,

Plaintiff(s)

v.

DAVID R. PETERS, et al.,

Defendant(s)

CIVIL NO. 09-1089 (JAG)

OPINION AND ORDER

GARCIA-GREGORY, D.J.

Before the Court is Defendants' Motion for Change of Venue. (Docket No. 71). For the reasons set forth, the Court **GRANTS** Defendants' motion.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs bring suit against Defendants for civil rights violations, and damages suffered due to the loss of an unborn child. Plaintiffs were the potential parents of an unborn child who died during a raid carried out by the City of Buffalo Police at some unknown locality in Buffalo, New York. Defendants Steven and Dennis Greene do not reside in Puerto Rico.

Defendants move the Court for Change of Venue. 28 U.S.C. § 1404. Plaintiffs filed no opposition.

STANDARD OF REVIEW

Venue

A civil action based on federal question jurisdiction can only be brought in "a judicial district where any Defendant resides, if all defendants reside in the same state" or "a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred..." 28 U.S.C. § 1391(b).

Upon finding that an action has been brought in a district wherein venue is improper, "[A] district court may transfer any civil action to any other district or division where it might have been brought." 28 U.S.C. § 1404(a).

DISCUSSION

Plaintiffs have not opposed Defendants' Motion for Change of Venue. Though it is unclear where the other Defendants in this action reside, Defendants Steven and Dennis Greene have each submitted sworn declarations stating that neither of them resides in Puerto Rico (Docket No. 71). Venue is thus improper under 28 U.S.C. § 1391(b)(1). Also, a substantial part of the events took place in Buffalo, New York. Hence, the District of Puerto Rico is not proper venue under 28 U.S.C. § 1391(b)(2) either, and the Western District of New York is. Accordingly,

pursuant to this Court's power under 28 U.S.C. § 1404(a), this action is hereby transferred to the Western District of New York.

CONCLUSION

For the reasons stated above, the Court hereby **GRANTS** Defendant's Motion to Dismiss. This case shall be transferred to the Western District of New York.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 14th day of February, 2011.

S/Jay A. Garcia-Gregory
JAY A. GARCIA-GREGORY
United States District Judge