

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

MARCUS BRANDON CARTWRIGHT §
VS. § CIVIL ACTION NO. 9:17cv46
LORI DAVIS §

MEMORANDUM OPINION AND ORDER REGARDING VENUE

Plaintiff Marcus Brandon Cartwright, proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff filed a petition for writ of habeas corpus concerning a prison disciplinary conviction. The petition was assigned civil action number 9:17cv21. Concluding that the petition also raised civil rights claims, the court severed the civil rights claims into a separate action. Those claims were assigned the civil action number set forth in the caption above.

Analysis

The Civil Rights Act, 42 U.S.C. § 1981, *et. seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28 U.S.C. § 1391. *Jones v. Bales*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curiam*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendant resides or in which the claim arose.

Plaintiff complains of events that occurred at the Segovia Unit, which is located in Hidalgo County, Texas. Pursuant to 28

U.S.C. § 124, Hidalgo County is located in the McAllen Division of the United States District Court for the Southern District of Texas.

As Hidalgo County is located in the Southern District of Texas, venue in the Eastern District of Texas is not proper. When venue is not proper, the court "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." 28 U.S.C. § 1406(a).

ORDER

For the reasons set forth above, it is

ORDERED that this matter is **TRANSFERRED** to the McAllen Division of the United States District Court for the Southern District of Texas.

SIGNED this the 11th day of July, 2017.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE