

United States District Court
Southern District of Texas

ENTERED

July 29, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

ROBERT RODRIGUEZ TREVINO,

Plaintiff,

VS.

BRAD LIVINGSTON, *et al.*,

Defendants.

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CIVIL ACTION NO. 3:14-CV-52

ORDER OF SEVERANCE AND TRANSFER

The plaintiff, Robert Rodriguez Trevino (TDCJ #00729766), is an inmate in the custody of the Texas Department of Criminal Justice - Correctional Institutions Division (“TDCJ”), and he has filed this action under 42 U.S.C. § 1983, alleging deliberate indifference to serious medical needs. Trevino’s sister is proceeding as next friend for him (Dkt. 26) and has retained an attorney. A motion for summary judgment premised on Trevino’s alleged failure to exhaust administrative remedies is pending (Dkt. 42). Trevino has asked for additional time to respond to that motion because his deposition is scheduled for August 4, 2016 (Dkt. 43).

Trevino’s original and first amended complaints dealt entirely with conduct that took place at the Jester IV Unit, which is in Fort Bend County, Texas (Dkt. 1 and Dkt. 15). Fort Bend County is in the Houston Division of the Southern District, not the Galveston Division. *See* 28 U.S.C. § 124(b)(2). That said, Trevino is currently incarcerated in TDCJ’s Carol Young Complex, which is in the Galveston Division, and he has filed a motion for leave to amend his complaint to include some of the Carol Young medical personnel (Dkt. 36).

The Carol Young claims and the Jester claims, based on Trevino's allegations, arise out of independent instances of alleged mistreatment; the only thing the claims appear to have in common is Trevino. Given the current posture of this case, the Court will grant Trevino's pending motion for leave to amend his complaint, sever the claims relating to Trevino's incarceration at Carol Young from the claims relating to his incarceration at Jester, and transfer the Jester claims to the Southern District of Texas, Houston Division. Because Trevino has requested permission to proceed *in forma pauperis* (Dkt. 2, Dkt. 6, Dkt. 33, and Dkt. 35), the Court will screen the Carol Young claims pursuant to 28 U.S.C. § 1915A.

Based on the foregoing, the Court **ORDERS** as follows:

1. Trevino's motion for leave to amend his complaint (Dkt. 36) is **GRANTED**.
2. Trevino's claims related to his incarceration at Jester Unit are to be **SEVERED** into a new and separate civil rights matter. Those claims are contained in paragraphs 1-19 of Trevino's Second Amended Complaint (Dkt. 36-1 at pp. 4-9). The Clerk of the Court is ordered to establish a new and separate docket for that matter and **TRANSFER** that docket, along with all pending motions, to the Southern District of Texas, Houston Division. The docket for that matter should include all documents from the present docket.
3. Trevino's claims relating to his incarceration at the Carol Young Complex will remain in the Galveston Division under the instant cause number. Those claims are contained in paragraphs 20-27 of Trevino's Second Amended Complaint (Dkt. 36-1 at pp. 9-10). Trevino is **ORDERED** to file an updated *in forma pauperis* application and certified prisoner trust fund account statement in the instant cause number.

SIGNED at Galveston, Texas on July 29, 2016.

George C. Hanks, Jr.
GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE