

01  
02  
03  
04  
05  
06  
07  
08  
09  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BILL LIETZKE,	)	CASE NO. C07-1061-RSM
	)	
Plaintiff,	)	
	)	
v.	)	ORDER TRANSFERRING CASE
	)	
COUNTY OF MONTGOMERY, et al.,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Bill Lietzke, appearing *pro se*, filed an application to proceed *in forma pauperis* and a proposed 42 U.S.C. § 1983 civil rights complaint against the County of Montgomery in Alabama, and two individual “County of Montgomery Defendants” – Reese McKinney and D.T. Marshall. (Dkt. 1.) Plaintiff’s allegations relate to his incarceration in psychiatric facilities in Montgomery, Alabama. He asserts jurisdiction based on the existence of a federal question. However, as discussed below, the Court finds a transfer in order due to improper venue.

Venue for actions not based solely on diversity of citizenship is determined by 28 U.S.C. § 1391(b), which states:

01 A civil action wherein jurisdiction is not founded solely on diversity of citizenship  
02 may, except as otherwise provided by law, be brought *only* in (1) a judicial district  
03 where any defendant resides, if all defendants reside in the same State, (2) a judicial  
04 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 the subject of the action is situated,  
or (3) a judicial district in which any defendant may be found, if there is no district in  
which the action may otherwise be brought.

05 28 U.S.C. § 1391(b) (emphasis added). Here, the named defendants – the County of  
06 Montgomery, McKinney, and Marshall – reside in the State of Alabama, not the State of  
07 Washington. Furthermore, all of the events or omissions giving rise to the claims in plaintiff’s  
08 complaint occurred in Alabama, not Washington. Accordingly, venue is not proper in the United  
09 States District Court for the Western District of Washington.

10 Title 28 U.S.C. § 1406(a) provides that “[t]he district court of a district in which is filed  
11 a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of  
12 justice, transfer such case to any district or division in which it could have been brought.” Because  
13 the defendants reside in Alabama, and because all of the acts or omissions giving rise to plaintiff’s  
14 claims occurred in Alabama, this action could have been brought in the United States District  
15 Court for the Middle District of Alabama. The Court finds that a transfer to that court is in the  
16 interest of justice.

17 For the reasons described above, the Court hereby **ORDERS** that this case be  
18 **TRANSFERRED** to the United States District Court for the Middle District of Alabama. The  
19 Clerk of Court is directed to **TRANSFER** this case pursuant to 28 U.S.C. § 1406(a) and is further  
20 directed to send a copy of this Order to plaintiff and to the Honorable Mary Alice Theiler, United

21 ///

22 ///

01 States Magistrate Judge.

02 DATED this 17<sup>th</sup> day of July, 2007.

03

04

05



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE\_

06

07

08

09 Recommended for entry  
this 16th day of July, 2007.

10 s/ Mary Alice Theiler \_\_\_\_\_  
United States Magistrate Judge

11

12

13

14

15

16

17

18

19

20

21

22