

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MAURICE A. SMITH,

Plaintiff,

v.

GENESIS BEHAVIORAL SERVICES, INC.,
BRENDA KING and GINA SINGLETARY,

Defendants.

ORDER

12-cv-371-bbc

In this civil action brought under 42 U.S.C. §1983, plaintiff Maurice A. Smith, a parolee, alleges that staff at his halfway house violated his right to intimate association by requiring him to choose between family visitation and access to the library for legal research. Defendant Genesis Behavioral Services, Inc. runs plaintiff's halfway house and defendants Brenda King and Gina Singletary are employees at the halfway house.

Presently before the court is defendants' motion to transfer for improper venue under 28 U.S.C. § 1406(a) and for the convenience of the parties and witnesses under 28 U.S.C. § 1404(a). Plaintiff has not filed any opposition to the motion, so it will be granted. The case will be transferred under § 1406(a), because venue is not proper in the Western District of Wisconsin under 28 U.S.C. § 1391(b) and is proper in the Eastern District of Wisconsin. In relevant part, 28 U.S.C. § 1391(b) provides

A civil 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; [or]

(2) 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).

All of the events alleged in plaintiff's complaint occurred at the halfway house, which is located in Milwaukee, Wisconsin. The individual defendants reside in the Eastern District. Ortloff Aff., dkt. # 18, ¶ 8. Genesis Behavioral Services's corporate offices are in West Allis, Wisconsin, which is in the Eastern District of Wisconsin; it maintains no offices or facilities in the Western District and does no business in this district. Id. at ¶¶ 2, 6-7. Plaintiff has not identified any contacts that Genesis Behavioral Services maintains with the Western District. Because corporate defendants are "deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State," 28 U.S.C. § 1391(d), I find that Genesis Behavioral Services is a resident of the Eastern District.

Because all of the events alleged in the complaint occurred in the Eastern District of Wisconsin and all of the defendants reside there, the Western District was not a proper venue for this case. When a case is filed "in the wrong division or district," 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). Rather than dismissing this case, which would require plaintiff to refile in the Eastern District, it will simply be transferred, as requested by defendants.

ORDER

IT IS ORDERED that defendants Genesis Behavioral Services, Brenda King and Gina Singeltary's motion to transfer pursuant to 28 U.S.C. § 1406(a) is GRANTED. The clerk of court is ordered to transfer this case to the United States District Court for the Eastern District of Wisconsin.

Entered this 15th day of October, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge