

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STEVEN LEROY MORRIS,

Plaintiff,

v.

CASE NO. 07-3131-SAC

CALDWELL COUNTY
SHERIFF'S DEPARTMENT,
et al.,

Defendants.

O R D E R

This civil rights complaint, 42 U.S.C. 1983, was filed by an inmate of the Johnson County Adult Detention Center, Olathe, Kansas. Plaintiff has also filed an Application to Proceed Without Prepayment of Fees (Doc. 2), and motion for appointment of counsel (Doc. 3). Having considered all materials filed, the court finds as follows.

Plaintiff names as defendants "Caldwell County Sheriff's Dept." and their "medical staff." As the factual support for his complaint, Mr. Morris alleges he was bitten by a brown recluse spider, but does not state the date or the location of this incident. He further alleges he was initially mis-diagnosed and was denied proper medical attention and treatment for the bite, while he was a pre-trial detainee at the Caldwell County Jail in Kingston, Missouri. He also claims he was subjected to other unconstitutional conditions at the Caldwell County Jail and suffered for several months. Plaintiff asks for money damages.

It appears from the materials filed by Mr. Morris that this complaint should not have been filed in this court. Venue in a

civil rights action is governed by 28 U.S.C. § 1391(b). Under Section 1391(b) this action must be brought in the judicial district where defendants reside, or the events or omissions giving rise to the claims occurred. 28 U.S.C. § 1391(b).

Plaintiff does not name any persons as defendants, and claims he is unable to obtain names. Nevertheless, it may be assumed that any medical staff member at the Caldwell County Jail in Kingston, Missouri, resides in Missouri, not Kansas. Plaintiff states that he is a citizen of Missouri (Doc. 3). The actions or inactions of which he complains occurred in Missouri. Thus, it appears this action should have been filed in a United States District Court in Missouri.

28 U.S.C. 1406(a) provides that a district court, for the convenience of the parties and in the interest of justice, may transfer any civil action to any other district where it might have been brought. The transfer of this action is appropriate because plaintiff's claims arise from actions or inactions occurring in Caldwell County, Missouri; the relevant records are located in Missouri; and if any formal proceedings are required in this case, the District of Missouri would be more convenient for witnesses.

It appears from the inmate account statement attached to plaintiff's Application to Proceed Without Prepayment of Fees (Doc. 2), that he would be required to submit a partial filing fee before proceeding further before this court. However, since the action is being transferred to another judicial district, this court provisionally grants leave to proceed without prepayment of fees for the purpose of this transfer only. The transferor court may then determine the Application (Doc. 2) in accordance with its rules and

procedures.

IT IS THEREFORE ORDERED that this civil rights complaint is transferred to the United States District Court for the Western District of Missouri for all further review.

A copy of this order shall be transmitted to the petitioner.

IT IS SO ORDERED.

DATED: This 31st day of May, 2007, at Topeka, Kansas.

s/ Sam A. Crow
U.S. Senior District Judge