

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Tyler Harris v. Max Fantozzi

Harris · No. 2:25-cv-00259-CDS-NJK · Decided February 24, 2025

SUMMARY

The United States District Court for the District of Nevada determined that venue was improper because the plaintiff’s claims arose from criminal defense services provided in Los Angeles County, California. The court rejected the plaintiff’s argument that his subsequent residence and probation-related activities in Nevada established venue there. It ordered the case transferred to the Central District of California, Western Division, in Los Angeles, and directed that the Nevada case be closed.

CASE DETAILS

COURT	United States District Court for the District of Nevada
WRITING FOR THE COURT	Nancy J. Koppé
JURISDICTION	United States District Court for the District of Nevada
DECIDED	February 24, 2025
DOCKET	2:25-cv-00259-CDS-NJK
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se, filed a civil action and an application to proceed in forma pauperis. The court ordered him to show cause why the action should not be dismissed or transferred for improper venue, and after receiving his response ordered transfer to the Central District of California.
STANDARD OF REVIEW	The court applied the statutory venue provisions governing where a civil action may be brought and exercised its discretion under 28 U.S.C. § 1406(a) to transfer an action filed in the wrong district.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

- venue
- civil procedure

PRACTICE AREAS

- civil procedure
- federal venue

QUESTIONS PRESENTED

1. Whether venue was proper in the District of Nevada under 28 U.S.C. § 1391(b) based on Plaintiff's residence, continuing injury, or probationary activities in Nevada.
2. Whether the action should be transferred under 28 U.S.C. § 1406(a) to the Central District of California rather than dismissed for improper venue.

HOLDINGS

1. Venue was not proper in the District of Nevada because the events giving rise to Plaintiff's claims—the Defendant's allegedly deficient criminal defense—occurred in Los Angeles County, California, and Plaintiff's later residence, continuing injuries, and probationary activities in Nevada did not establish venue.
2. The action should be transferred to the Central District of California, Western Division in Los Angeles, because the District of Nevada was an improper venue and the California district was a district in which the action could have been brought.

KEY QUOTATIONS

“ “[A]llegations regarding where Plaintiffs felt their injuries are irrelevant to the venue determination, which focuses on a defendant's actions.” ” (2)

FACTUAL BACKGROUND

The action arose from Defendant's work as Plaintiff's public defender in criminal proceedings in Los Angeles County, California. Plaintiff alleged that defense counsel could have obtained dismissal of the criminal case by raising certain constitutional arguments. Plaintiff later moved to Nevada after release from custody and asserted that some probationary requirements occurred there, but the alleged defense-related conduct took place in California.

PROCEDURAL HISTORY

Plaintiff filed the action in the District of Nevada concerning alleged ineffective or constitutionally deficient representation by a California public defender in criminal proceedings. The court issued an order to show cause regarding venue. After Plaintiff argued that venue was proper because he later moved to Nevada and performed some probationary requirements there, the court rejected that argument and transferred the case to the Central District of California.

DISPOSITION

other

REMAND INSTRUCTIONS

The Clerk was ordered to transfer the matter to the United States District Court for the Central District of California, Western Division in Los Angeles, and close the District of Nevada case.

CASES CITED

- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- White v. Martel, 601 F.3d 882, 885 (9th Cir. 2010)
- Duarte v. Cal. Hotel & Casino, 2009 WL 4668739, at *4 (D. Haw. Dec. 4, 2009)
- Harris v. United States, 2019 WL 7834813, at *5 (C.D. Cal. Nov. 1, 2019), adopted, 2020 WL 402126 (C.D. Cal. Jan. 24, 2020)
- Wisland v. Admiral Beverage Corp., 119 F.3d 733, 736 (8th Cir. 1997)
- Gamboa v. USA Cycling, Inc., 2013 WL 1700951, at *3 (C.D. Cal. Apr. 18, 2013)
- In re U.S. Dept. of Ed., 25 F.4th 692, 698-99 (9th Cir. 2022)

OPINION

1 2 3 UNITED STATES DISTRICT COURT 4 DISTRICT OF NEVADA 5 6 TYLER HARRIS,
Case No. 2:25-cv-00259-CDS-NJK 7 Plaintiff(s), ORDER 8 v. 9 MAX FANTOZZI, 10
Defendant(s). 11 Plaintiff is proceeding pro se and filed an application to proceed in forma
pauperis. Docket 12 No. 1.

On February 7, 2025, the Court ordered Plaintiff to show cause why this case should not 13 be
dismissed on venue grounds, or transferred to the United States District Court for the Central 14
District of California. Docket No. 3. Plaintiff filed a response. Docket No. 4.1 15 The federal
venue statute requires that a civil action be brought in (1) a judicial district in 16 which any
defendant resides, if all defendants reside in the same state where the district is located, 17 (2) a
judicial district in which a substantial part of the events or omissions giving rise to the claim 18
occurred, or a substantial part of property that is the subject of the action is situated, or (3) a
judicial 19 district in which any defendant is subject to personal jurisdiction at the time the action
is 20 commenced, if there is no district in which the action may otherwise be brought.

28 U.S.C. § 21 1391(b). If a case has been filed in the wrong district, the district court in which the
case has been 22 incorrectly filed has the discretion to transfer such case to any district in which it
could have been 23 brought. 28 U.S.C. § 1406(a). 24 Although the complaint lacks detail, the case
arises out of a public defender's work in 25 defending Plaintiff in proceedings in California.

See, e.g., Docket No. 1-1. More specifically, 26 Plaintiff argues that his defense counsel could
have had his criminal case dismissed had he raised 27 1 The Court liberally construes the filings of
pro se litigants. Erickson v. Pardus, 551 U.S. 28 89, 94 (2007). 1} certain constitutional arguments.
See Docket No. 4 at 4.

The complaint states that the lawsuit arose in Los Angeles County. See Docket No. 1-2 at 2.
California bar records also indicate that Defendant is a Los Angeles County Public Defender
working in Van Nuys, California. See White 4! v. Martel, 601 F.3d 882, 885 (9th Cir. 2010) (courts
may take judicial notice of bar records).

In 5] short, Defendant's criminal defense of Plaintiff are the events giving rise to Plaintiffs claim and 6] that criminal defense took place in Los Angeles County, California (not in southern Nevada). 7 Despite the above, Plaintiff's response to the order to show cause indicates that venue is 8|| proper in this District because he moved to Nevada after being released from custody in California and that some of his probationary requirements took place in Nevada.

See Docket No. 4 at 3. This 10] contention is unavailing. "[A]llegations regarding where Plaintiffs felt their injuries are irrelevant 11] to the venue determination, which focuses on a defendant's actions." *Duarte v. Cal. Hotel & 12] Casino*, 2009 WL 4668739, at *4 (D. Haw. Dec. 4, 2009). Courts reject the contention that venue 13] is proper in a new state where the plaintiff continues feeling alleged harm stemming from an earlier 14] event giving rise to the claim in another state.

See *Harris v. United States*, 2019 WL 7834813, at 15] *5 (C.D. Cal. Nov. 1, 2019) (allegations of continuing harm from alleged unlawful detention and actions while confined elsewhere did not create basis for venue), adopted, 2020 WL 402126 (C.D. 17|| Cal. Jan. 24, 2020); see also, e.g., *Wisland v. Admiral Beverage Corp.*, 119 F.3d 733, 736 (8th Cir. 18] 1997); *Gamboa v. USA Cycling, Inc.*, 2013 WL 1700951, at *3 (C.D.

Cal. Apr. 18, 2013); *Duarte*, 19} 2009 WL 4668739, at *4. 20 Accordingly, it is hereby ORDERED that the Clerk of Court transfer this matter to the 21] Central District of California (Western Division in Los Angeles) and that this case be closed.' 22 IT IS SO ORDERED. 23 Dated: February 24, 2025 Zz A A Nancy J. Koppé 25 United States Magistrate Judge 26 27? An order transferring a case to another federal jurisdiction is a nondispositive matter that is within a magistrate judge's authority under 28 U.S.C. § 636(b)(1)(A).

See *in re U.S. Dept. of 28] Ed.*, 25 F.4th 692, 698-99 (9th Cir. 2022).