

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ernest Godfrey Logan, Jr. v. DPSS Public Social Services, et al.

No. 2:24-cv-02743-TLN-SCR · No. No. 2:24-cv-02743-TLN-SCR · Decided July 14, 2025

SUMMARY

The United States District Court for the Eastern District of California ordered the pro se plaintiff to show cause why the action should not be dismissed or transferred based on improper venue. The court also directed the plaintiff to address the failure to effect service within the time required by Federal Rule of Civil Procedure 4(m), and permitted voluntary dismissal under Rule 41.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 14, 2025
DOCKET	No. 2:24-cv-02743-TLN-SCR
DISPOSITION	other
PROCEDURAL POSTURE	The pro se plaintiff filed a civil-rights complaint and paid the filing fee. The court issued an order to show cause because the action appeared to have been filed in the wrong venue and no proof of service had been filed more than 90 days after the complaint.
PRECEDENTIAL VALUE	unknown
PARTIES	Ernest Godfrey Logan, Jr. v. DPSS Public Social Services, et al.

TOPICS

- venue
- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- venue
- service of process

QUESTIONS PRESENTED

1. Whether the action was filed in an improper venue under 28 U.S.C. § 1391(b) and therefore could be dismissed or transferred under 28 U.S.C. § 1406(a).
2. Whether the action was subject to dismissal without prejudice or an extension of time because plaintiff had not served defendants within 90 days as required by Federal Rule of Civil Procedure 4(m).

HOLDINGS

1. A district court may raise improper venue sua sponte when defendants have not appeared and have not waived a venue challenge.
2. When an action is filed in the wrong venue, the district court may dismiss it or, in the interests of justice, transfer it to a district in which it could have been brought.
3. If a defendant is not served within 90 days after the complaint is filed, the court must dismiss the action without prejudice as to that defendant or order service within a specified time, subject to a required extension when the plaintiff shows good cause.

KEY QUOTATIONS

“Where an action is filed in the wrong venue, the district court may dismiss it or, in the interests of justice, transfer it to a district where it could have been brought.” (at 1)

“If a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” (at 1-2)

FACTUAL BACKGROUND

Plaintiff alleged wrongdoing and theft involving public funds for social-services agencies. The complaint identified Los Angeles as plaintiff's location and listed Los Angeles-area addresses for all defendants, while the action was filed in the Eastern District of California. No defendant had appeared or waived a venue objection, and no return or proof of service was on file more than 90 days after filing.

PROCEDURAL HISTORY

Plaintiff filed the complaint on October 4, 2024, in the Eastern District of California, although the complaint caption identified the Central District of California and the plaintiff and defendants appeared to be located in Los Angeles. Summonses issued on October 7, 2024, but no return or proof of service was filed within 90 days. The court ordered plaintiff to show cause within 14 days why the action should not be dismissed or transferred for improper venue and dismissed for failure to effect service.

DISPOSITION

other

CASES CITED

- Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986)

OPINION

(PS) Logan Jr v. DPSS Public Social Services

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 ERNEST GODFREY LOGAN, Jr., No. 2:24-cv-02743-TLN-SCR

12 Plaintiff,

13 v. ORDER TO SHOW CAUSE

14 DPSS PUBLIC SOCIAL SERVICES, et

al., 15 Defendants. 16 17 Plaintiff, proceeding pro se, filed a complaint and has paid the filing fee. ECF No. 1. 18 This matter is before the undersigned pursuant to Local Rule 302(c)(21) and 28 U.S.C. § 19 636(b)(1). Review of the complaint reflects that this action was filed in the improper venue. 20 Additionally, more than 90 days have passed since the filing of this action and no return of 21 service is on file. Accordingly, Plaintiff shall show cause why the action should not be dismissed 22 or transferred to the Central District of California. 23 I. Venue 24 Plaintiff filed his complaint on October 4, 2024. ECF No. 1. The caption of the 25 complaint states “Central District of California.” Id. at 1. Plaintiff lists his address as Los 26 Angeles, California. Id. Plaintiff also lists Los Angeles area addresses for all of the Defendants.

27 Id. at 2-3. Plaintiff appears to allege wrongdoing and theft in regard to public funds for social 28 services agencies. 1 The federal venue statute provides that a civil action “may be brought in (1) a judicial 2 district in which any defendant resides, if all defendants are residents of the State in which the 3 district is located; (2) a judicial district in which a substantial part of the events or omissions 4 giving rise to the claim occurred, or a substantial part of property that is the subject of the action 5 is situated; or (3) if there is no district in which an action may otherwise be brought as provided in 6 this section, any judicial district in which any defendant is subject to the court’s personal 7 jurisdiction with respect to such action.” 28 U.S.C. § 1391(b). 8 In this case, it appears the Defendants reside in Los Angeles, as does the Plaintiff. 9 Further, it appears that the events or omissions giving rise to the claim allegedly occurred in Los 10 Angeles. As the Defendants have not appeared and have not waived a challenge to venue, the 11 Court may raise the issue sua sponte. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986). 12 Where an action is filed in the wrong venue, the district court may dismiss it or, in the interests of 13 justice, transfer it to a district where it could have been brought. Id. citing 28 U.S.C. § 1406(a). 14 II. Service 15 Plaintiff filed this action on October 4, 2024. ECF No. 1. Summons issued on October 7, 16 2024. ECF No. 4. Federal Rule of Civil Procedure 4(m) provides in relevant part: “If a defendant 17 is not served within 90 days after the complaint is filed, the court--on motion or on its own after 18 notice to the plaintiff--must dismiss the action without prejudice against that defendant or order 19 that service

be made within a specified time. But if the plaintiff shows good cause for the failure, 20 the court must extend the time for service for an appropriate period.” More than 90 days have 21 passed since the filing of the complaint and Plaintiff has not filed a return/proof of service. 22 Accordingly, IT IS HEREBY ORDERED that: 23 1. Plaintiff shall show cause, in writing, within 14 days of the date of this Order, why 24 this action should not be dismissed/transferred based on improper venue or dismissed 25 based on failure to effect service. Plaintiff shall address both the issue of venue and 26 issue of service. If Plaintiff fails to respond, the court will recommend dismissal of 27 the action. 28] 2. Alternatively, if Plaintiff no longer wishes to pursue this action, Plaintiff may file a 2 notice of voluntary dismissal of this action pursuant to Rule 41 of the Federal Rules of 3 Civil Procedure. 4 SO ORDERED. 5 | DATED: July 11, 2025 6 .

7 SEAN C. RIORDAN

g UNITED STATES MAGISTRATE JUDGE

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