

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SAMUEL J. LASSOFF : CIVIL ACTION  
v. :  
STATE OF NEW JERSEY, et al. : NO. 04-4462

O'NEILL, J. MARCH 18, 2005

MEMORANDUM AND ORDER

Plaintiff, Samuel Lassoff, filed a civil rights complaint on November 24, 2004 alleging violations of 42 U.S.C. §§ 1983, 1985, 1986, 1988, as well as violations of his rights under the statutes and common laws of New Jersey naming defendants, the State of New Jersey, the New Jersey Division of State Police, the New Jersey State Police Division of Gaming Enforcement,<sup>1</sup> Trooper Reno Nepi, various John and Jane Doe law enforcement officers, the City of Atlantic City, the Atlantic City Prosecutor's Office, Municipal Prosecutor Billie Moore, Assistant Municipal Prosecutor Christopher Robertson, Caesars Entertainment, Inc., Bally's Atlantic City & Wild Wild West Casino, Bally's Atlantic City, Bally's Security Director, Bally's Surveillance Security Officer Mike Flemming, Bally's Security Supervisor Dori Diaz, Bally's Security Officer Eric Denmead, various John and Jane Doe Bally's Security Officers & Employees, and Brian Taylor, jointly, severally, or in the alternative. Defendants have filed a motion to dismiss for failure to set forth a claim for relief under Federal Rule of Civil Procedure 8(a), to which plaintiff has filed a response, styled "answer." Before me now is defendants' motion to transfer venue or,

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<sup>1</sup>No such entity exists in the State of New Jersey.

in the alternative, to dismiss plaintiff's complaint and plaintiff's response thereto.

In his complaint, Lassoff asserts jurisdiction pursuant to 28 U.S.C. §§ 1331 (federal question) and 1334 (bankruptcy). Lassoff also asserts that the action is properly brought in this Court pursuant to 28 U.S.C. § 1391. Section 1391(b) provides:

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may . . . be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred . . . , 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.

In the present case, venue is not proper under Section 1391(b)(1) because all defendants do not reside in the same state. Unlike the other defendants, who reside in New Jersey, Taylor resides in Darby, Pennsylvania (or at least resided in Darby at the time the complaint was filed). Venue is proper in the District of New Jersey under Section 1391(b)(2) because all of the alleged events giving rise to the claim occurred in New Jersey. Venue is not proper in this District, where Taylor potentially may be found, under Section 1391(b)(3) because venue is available in the District of New Jersey under Section 1391(b)(2).

Where venue is improper, 28 U.S.C. § 1406(a) provides that I may “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.”<sup>2</sup> Exercising my discretion, I will transfer this case to the United States District Court for the District of New Jersey.

AND NOW, this 18th day of March 2005, upon consideration of the defendants' motion

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<sup>2</sup>Arguing against transfer, Lassoff asserts various factors that implicate 28 U.S.C. § 1404(a), which allows for transfer of venue for the convenience of parties and witnesses, in the interest of justice. Defendants have not moved to transfer pursuant to Section 1404(a) and I do not transfer pursuant to that Section.

to transfer venue, or in the alternative, to dismiss plaintiff's complaint, plaintiff's response thereto, and for the reasons set forth above, it is ORDERED that defendant's motion to transfer is GRANTED. The Clerk of Court is directed to transfer this action to the United States District Court for the District of New Jersey.

s/ Thomas N. O'Neill, Jr.  
THOMAS N. O'NEILL, JR., J.