

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

DARREN KEYS,	:	
	:	CIVIL ACTION
	:	
Petitioner,	:	
	:	
v.	:	No. 06-2837
	:	
DEPARTMENT OF JUSTICE	:	
	:	
Respondent.	:	

MEMORANDUM

ROBERT F. KELLY, Sr. J.

JANUARY 16, 2007

Petitioner Darren Keys, a federal prison inmate, has filed, *pro se*, two separate Petitions for a Writ of Mandamus pursuant to 28 U.S.C. § 1361. In addition, he has filed: (1) an Emergency Omnibus Motion for Stay, a Motion of Review of Underlying Decision, and Application for Relief pending Judicial Review, and (2) a Motion for Leave to Amend his Petition for a Writ of Mandamus. In response, Respondent Department of Justice has filed a Motion to Dismiss. Because venue is improper in the Eastern District of Pennsylvania (“Eastern District”), all of Keys’ Petitions and Motions are denied and the Department of Justice’s Motion to Dismiss is granted.

I. BACKGROUND

Keys’ Petitions and Motions arise out of events that occurred while he was an inmate at the Federal Correctional Institution - Schuylkill (“FCI - Schuylkill”) located in Minersville, Pennsylvania. In his first Petition, Keys claims that because the prison staff ignored his request to have the prison’s ventilation system fixed, he decided to climb into a ceiling vent near his

cubicle so that he could try and fix it himself. While he was in the ceiling vent, the prison officers conducted a count of the prisoners and discovered that Keys was missing. Keys claims that he became stuck in the vent and began screaming for help and banging on the pipes and ceiling. He claims that the prison officers heard his “emergency call for help” and ignored him. Other inmates had to eventually help him down from the vent.

According to Keys, he was charged with escape because of this incident. He argues that he should have been charged with disruptive behavior or interfering with a prisoner count instead of escape. He believes he was charged with escape in retaliation for a lawsuit he previously filed against other prison officers. Thus, Keys filed this first Petition seeking this Court to compel the Bureau of Prisons (1) to afford him due process and the right to redress his grievance, (2) to refrain from charging him with escape, and (3) to provide him with access to the law library, his glasses, legal books, and his files.

Keys filed a second Petition for a Writ of Mandamus because he claims the prison staff is refusing to cooperate in the investigation and in the administrative remedy process regarding the escape charge. He is seeking to compel the prison staff to provide him with various documents, a list of all the prison officers involved in the incident, a new staff representative, and a postponement of his disciplinary hearing. On June 26, 2006, Keys was subjected to a disciplinary hearing. Thereafter, he filed an Emergency Omnibus Motion for Stay, a Motion of Review of Underlying Decision, and Application for Relief pending Judicial Review. He also filed a Motion for Leave to Amend this second Mandamus Petition. These two filings allege various constitutional violations that occurred at that disciplinary hearing.

II. DISCUSSION

Keys' case shall be dismissed because venue is not proper in the Eastern District.

Pursuant to 28 U.S.C. § 1391(e), venue in a civil action against a federal agency is proper in any judicial district in which (1) a defendant in the action resides, (2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) the plaintiff resides if no real property is involved in the action.

The Eastern District does not qualify as the proper venue under any of these three provisions.

With regards to 28 U.S.C. § 1391(e)(1), the Department of Justice, the defendant in this action, does not reside in the Eastern District. A federal agency does not reside in every judicial district that it may maintain an office. Davies Precision Machining, Inc. v. Defense Logistics Agency, 825 F. Supp. 105, 107 (E.D. Pa. 1993). There is nothing in the language of 28 U.S.C. § 1391(e) or in its legislative history to suggest that Congress intended for the Department of Justice to be sued in the Eastern District just because it has an office here. See id.; Reuben H. Donnelley Corp. v. Fed. Trad. Comm., 580 F.2d 264, 267 (7th Cir. 1978). Rather, for the purposes of venue, a federal agency, such as the Department of Justice, resides only in Washington, D.C. Id.; Williams v. U.S., No. 01-0024, 2001 WL 1352885, *1 (N.D. Cal. Oct. 23, 2001).

With regards to 28 U.S.C. § 1391(e)(2), all the events giving rise to Keys' claims occurred while he was a prisoner at FCI-Schuylkill in Minersville, Pennsylvania. Minersville is located in Schuylkill County in the Middle District of Pennsylvania. See <http://www.usmarshals.gov/district/pa-e/general/area.htm> (last visited Jan. 16, 2007) (displaying maps of the three federal districts in Pennsylvania). Thus, venue in the Eastern District is improper.

With regards to 28 U.S.C. § 1391(e)(3), plaintiff Keys' residence is in Baltimore, Maryland and not in the Eastern District. "Residence, for purposes of determining venue, is the place where an individual has his domicile or permanent home." Loeb v. Bank of Am., 254 F. Supp. 2d 581, 586 (E.D. Pa. 2003). Prior to incarceration, Keys resided in Baltimore. (John E. Wallace Decl., 2). His current status as a prisoner at the Federal Correctional Institution in Williamsburg, South Carolina does not change his domicile. (Id., 1). "[A] prisoner retains the domicile he had at the time of his incarceration and may not claim a change of domicile by virtue of his incarceration." O'Brien v. Schweiker, 563 F. Supp. 301, 302 (E.D. Pa. 1983); Parr v. Grenko, No. 93-0845, 1993 WL 259327, *1 (E.D. Pa. July 9, 1993). Thus, Keys remains a resident of Baltimore, Maryland and venue here is improper.

In conclusion, venue is improper in the Eastern District because the Department of Justice does not reside here, none of the events giving rise to Keys' Petitions and Motions occurred here, and Keys does not reside here. Therefore, this Court denies all of Keys' Petitions and Motions and dismisses Keys' case pursuant to 28 U.S.C. § 1406(a).

An appropriate Order follows.

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DEPARTMENT OF JUSTICE	:	
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ORDER

AND NOW this 16th day of January, 2007, upon consideration of the Petitioner Darren Keys' Petition for a Writ of Mandamus (Doc. No. 1), Emergency Petition for a Writ of Mandamus (Doc. No. 3), Emergency Omnibus Motion of Administrative Action, Motion of Review of Underlying Decision, and Application for Relief pending Judicial Review (Doc. No. 4), and Motion for Leave to Amend Petition (Doc. No. 5), it is hereby **ORDERED** that all Petitions and Motions are **DENIED**.

Upon consideration of Respondent Department of Justice's Motion to Dismiss (Doc. No. 14), it is hereby **ORDERED** that the Motion is **GRANTED** pursuant to 28 U.S.C. § 1406(a).

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY, Sr. J.