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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MONRELL MURPHY,
Plaintiff,

No. C 02-4023 NJV
ORDER

vs.

P.I. TERRY et al.,
Defendants.

At the Case Management Conference held on September 14, 2005 the Court requested the parties to file letter briefs regarding where the trial in the above-captioned matter is to be held. The court has received and reviewed both letter briefs. It appears that the defendants seek to have the jury trial in Eureka whereas the plaintiff wishes to have the jury trial held in San Francisco.

Contrary to plaintiff's characterization, trial in Eureka does not constitute a "change of venue." Venue refers to the judicial district or division in which an action proceeds. See 28 USC § 1391, 1404 (discussing venue as the "judicial district" or "division" in which a suit may be brought or transferred). The Northern District of California includes Humboldt County. 28 USC § 84(a). Plaintiffs properly commenced this action in the Northern District of California as the judicial district in which defendants reside and in which the events at issue substantially occurred. See Complaint filed August 20, 2002; 28 USC § 1391.

Unlike some other districts, the Northern District of California is not statutorily divided into separate

1 divisions. Compare id § 84(a) with id § 84(c) (Central District of California comprises three divisions :
2 eastern, western and southern). The Northern District of California is authorized to conduct proceedings at
3 "Eureka, Oakland, San Francisco, and San Jose." Id § 84(a). The Northern District's civil local rules
4 provide that the court shall be in "continuous session in the following locations: San Francisco Division,
5 Oakland Division and San Jose Division." Civil LR 3-1. By implication, therefore, the court is in non-
6 continuous session at Eureka. More importantly, the "Divisions" referred to in the local rules are not
7 "divisions" in the statutory sense, but simply shorthand references adopted for administrative convenience.
8 Indeed, the civil local rules also provide that: "From time to time sessions may be held at other locations
9 within the district as the Court may order." Id. Thus, the court may conduct business at places other than
10 those provided by statute.

11 "A district court may order any civil action to be tried at any place within the division in which it is
12 pending." 28 USC § 1404(c). As the Northern District is not a statutorily "divided" district, cases may be
13 tried at any place in the district. The decision to set the trial location is vested in the discretion of the district
14 court; the court need not present "good cause" for setting the location of trial pursuant to 28 USC § 1404
15 (c). El Ranco, Inc v First Nat'l Bank of Nevada, 406 F2d 1205, 1219 (9th Cir 1968), cert denied, 396
16 US 875 (1969). The Ninth Circuit explained in that case, that a district court's decision to move the place
17 of trial after a previous trial in a case that resulted in a hung jury is "entirely in the discretion of the trial
18 court." Lung v. United States, 111 F2d 640, 641 (1940). No "affirmative showing" to justify the transfer is
19 necessary as long as it comports with federal statutes. Id at 640-41.

20 Eureka, of course, is located within the Northern District, 28 USC § 84(a), and cases arising there
21 are assigned to district judges maintaining chambers in San Francisco, Oakland and to the magistrate
22 judge sitting in Eureka by consent of the parties. See Civil LR 3-2(d). Even assuming without deciding that
23 the divisions created by civil local rule may alter the operation of the venue statute, the decision to conduct
24 a trial in Eureka is authorized by 28 USC § 1404(c). No reassignment or venue transfer occurs by virtue
25 of holding trial in Eureka as opposed to San Francisco or elsewhere in the district. Hence, plaintiffs suffer
26 no injury to their choice of venue in the Northern District.

27 Even if the trial of this matter in Eureka could arguably constitute a change of venue, the
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1 requirements of 28 USC §1404(a) have been satisfied. The majority of the parties and witnesses reside in
2 the Crescent City area, approximately a one hour drive from the Eureka courthouse. The plaintiff is in the
3 custody of the California Department of Corrections . The department will be responsible for the
4 transportation and housing of the defendant while he is in Eureka. Plaintiff's counsel will have an adequate
5 opportunity to consult with their client during trial. Finally, the court has all of the infrastructure needed to
6 conduct a jury trial. Eureka has an airport, many hotels, restaurants and other accommodations, as well as
7 copy services and other resources that may be needed for trial. Out of the area counsel routinely tries cases
8 in the Humboldt County Superior Court without any apparent ill effects. Because there has been no change
9 of venue, and for the convenience of the majority of the parties and witnesses, defendants' motion to have
10 the matter tried in Eureka is GRANTED.

11 IT IS SO ORDERED.

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13 Dated:

14 NANDOR J. VADAS
United States Magistrate Judge
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