

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Arron Murphy,

Plaintiff,

v.

Wexford Health Sources, Inc.,

Defendants.

Case No. 19-cv-07788

Judge John Robert Blakey

ORDER

Plaintiff Arron Murphy sues Defendant Wexford Health Sources, Inc. under diversity jurisdiction, 28 U.S.C. § 1332, alleging medical malpractice. In a single motion, [10], Defendant (1) moves to dismiss the complaint for improper venue or, in the alternative, to transfer this action to the United States District Court for the Southern District of Illinois pursuant to 28 U.S.C. § 1404(a) or 28 U.S.C. § 1406(a); and (2) moves to dismiss this case as duplicative of a case before the U.S. Court of Appeals for the Seventh Circuit. This Court grants the motion to transfer to the Southern District of Illinois, and it denies as moot the motion to dismiss this complaint as duplicative.

STATEMENT

Plaintiff is a former inmate of the Robinson Correctional Center in Crawford County, Illinois. [17-1] at 1–2. In May 2018, Plaintiff filed an action under 42 U.S.C. § 1983 in the Southern District of Illinois against Wexford Health Sources, Inc. (“Wexford”), an entity providing medical services for the Illinois Department of Corrections, and Vipin Shah, Robinson’s medical director and a Wexford employee, alleging deliberate indifference to a dental condition in violation of Plaintiff’s Eighth Amendment rights. [18-1] at 1–2. Invoking this Court’s supplemental jurisdiction, Plaintiff also alleged “healing arts” malpractice. [1] at ¶ 1–3.

In November 2019, the Southern District of Illinois resolved the § 1983 claim on summary judgment and declined to exercise jurisdiction over the Plaintiff’s remaining state law claim. [1]. Plaintiff appealed the court’s summary judgment decision shortly thereafter. [11] at 4–5.

Days after filing his notice of appeal, Plaintiff, now a resident of the Northern District of Illinois, filed this action against Wexford under diversity jurisdiction.¹ [1] at 1. Wexford now (1) moves to dismiss for improper venue or, in the alternative, transfer venue; and (2) moves to dismiss as duplicative or, in the alternative, stay proceedings pending the resolution of Plaintiff's appeal to the Seventh Circuit. [10].

On June 18, 2020, the Seventh Circuit affirmed the Southern District of Illinois' entry of summary judgment in Wexford's favor on Plaintiff's § 1983 claim, *Murphy v. Wexford*, 962 F.3d 911, 917 (7th Cir. 2020), rendering moot Wexford's motion to dismiss this action as duplicative or, in the alternative, stay proceedings. This Court now turns to Wexford's motion to dismiss for improper venue or, in the alternative, to transfer venue.

Under Rule 12(b)(3), a defendant may move to dismiss for improper venue. In ruling on the motion to dismiss, courts may look beyond the pleadings to consider "documents that are attached to the complaint, documents that are central to the complaint and are referred to in it, and information that is properly subject to judicial notice." *Williamson v. Curran*, 714 F.3d 432, 436 (7th Cir. 2013).

Venue is generally proper in "a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located," or "a judicial district in which 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." 28 U.S.C. § 1391(b)(1)–(2). In a state with multiple judicial districts, a corporate defendant resides "in any district . . . within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State." *Id.* § 1391(d).

Because the events giving rise to the claim occurred entirely within the Southern District of Illinois, venue will only be proper in this district if Wexford is resident here. This question turns on whether Wexford is subject to personal jurisdiction in the Northern District of Illinois. *See* 28 U.S.C. § 1391(d). Where there is no claim under a federal law authorizing nationwide service of process, this Court will have personal jurisdiction "only if authorized both by Illinois law and by the United States Constitution." *be2 LLC v. Ivanov*, 642 F.3d 555, 558 (7th Cir. 2011).

Illinois' long-arm statute "permits the exercise of jurisdiction to the full extent permitted by the Fourteenth Amendment's Due Process Clause," *Curry v. Revolution Lab's, LLC*, 949 F.3d 385, 393 (7th Cir. 2020) (quoting *Tamburo v. Dworkin*, 601 F.3d 693, 700 (7th Cir. 2010)), so this Court need only assess "whether the exercise of personal jurisdiction over the defendants 'comports with the limits imposed by federal due process,'" *id.* (quoting *Walden v. Fiore*, 571 U.S. 277, 283 (2014)).

¹ This Court finds that Plaintiff meets the complete diversity of citizenship and amount in controversy requirements for diversity jurisdiction.

Personal jurisdiction over an out-of-state defendant will satisfy these due process limits if defendant has “certain minimum contacts with it such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (quoting *Milliken v. Meyer*, 311 U.S. 457, 463 (1945)). Defendant’s minimum contacts may give rise to general personal jurisdiction, when defendant is incorporated in a jurisdiction or has its principal place of business there, or specific personal jurisdiction, when: (1) defendant “purposefully avail[s]” itself of the “privilege of conducting business in the forum” or purposefully directs its activities at the forum; (2) plaintiff’s alleged injury arises from “defendant’s forum-related activities”; and (3) the exercise of specific personal jurisdiction comports with “traditional notions of fair play and substantial justice.” *Curry*, 949 F.3d at 395 n.34, 398 (quoting *Lexington Ins. Co. v. Hotai Ins. Co., Ltd.*, 938 F.3d 874 (7th Cir. 2019)).

Wexford is a Florida corporation with its principal place of business in Pennsylvania. *Walker v. Wexford Health Sources, Inc.*, No. 17-cv-03208, 2019 WL 4015882, at *1 (C.D. Ill. Aug. 26, 2019); [1] at ¶ 4. As there is no other evidence that Wexford’s “affiliations with the [Northern District of Illinois] are so ‘continuous and systematic’ as to render [it] essentially at home,” *Daimler AG v. Bauman*, 571 U.S. 117, 138–39 (2014) (second alteration in original) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011)), this Court does not have general personal jurisdiction over Wexford.

Nor does this Court have specific personal jurisdiction over Wexford. Although Wexford may purposefully avail itself of the benefits of conducting business in the Northern District of Illinois, [17] at 3 (noting Wexford’s provision of medical services for an Illinois Department of Corrections facility in the Northern District of Illinois), Plaintiff’s injuries did not arise from Wexford’s activities in *this* forum. Instead, Plaintiff alleges injury caused by Wexford’s activities in the Southern District of Illinois. [1] at ¶¶ 6–38; *see also* [11] at 3. Because this Court has neither general nor specific personal jurisdiction over Wexford in this particular case, venue here is improper.

When venue is improper, this Court has broad discretion to dismiss the case or transfer it “to any district or division in which it could have been brought” if “it be in the interest of justice.” 28 U.S.C. § 1406(a); *see Cote v. Wadel*, 796 F.2d 981, 985 (7th Cir. 1986). Between these two options, transfer is “generally considered to be more ‘in the interest of justice’ than dismissal.” *Van Gelder v. Taylor*, 621 F. Supp. 613, 622 (N.D. Ill. 1985). That transfer must be to a district “in which the plaintiff might have filed it *originally*.” *Kinney v. Anchorlock Corp.*, 736 F. Supp. 818, 827 (N.D. Ill. 1990). In other words, this Court can transfer a case to another district “only if the defendant was subject to personal jurisdiction in that district when the suit was first filed.” *Id.* Unlike the venue analysis, which treats the district court as the relevant forum, this

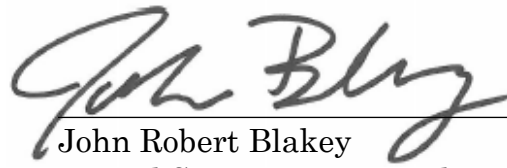
assessment of personal jurisdiction examines the state of Illinois. *See, e.g., Holman v. AMU Trans, LLC*, No. 14 C 04407, 2015 WL 3918488, at **2–3 (N.D. Ill. June 25, 2015) (analyzing Tennessee’s personal jurisdiction over defendant when considering transfer to the Middle District of Tennessee).

By contracting to provide healthcare services for Illinois Department of Corrections inmates within the state of Illinois, Wexford has purposefully availed itself of the privileges of doing business in this forum. [18-1] at 2. And Plaintiff’s injuries arise from Wexford’s forum-related activities, namely its provision of medical treatment to Illinois prisoners. [1] at ¶¶ 6–38. Given that Wexford itself has moved for a transfer to the Southern District of Illinois, [10], it stands to reason that personal jurisdiction over Wexford there would comport with fair play and substantial justice.

For the reasons explained above, this Court grants in part and denies as moot in part docket entry [10]. The Court grants Defendant’s motion to transfer venue, and hereby transfers this case to the Southern District of Illinois. The Court denies as moot Defendant’s motion to dismiss the complaint as duplicative or, in the alternative, stay proceedings pending the resolution of the appeal before the Seventh Circuit.

Dated: September 21, 2020

Entered:



John Robert Blakey
United States District Judge