

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Steven M. Larimore
Court Administrator • Clerk of Court

400 North Miami Avenue, Room 8N09
Miami, Florida 33128-7716
(305) 523-5100

Date: May 25, 2016

Clerk of the Circuit and County Courts
15th Judicial Circuit of Florida
205 North Dixie Highway, Room 3.2300
West Palm Beach, FL 33401

RE: District Court Case No.: 9:16-cv-80747-RLR

State Court Case No.: 502010DR003810XXXXSB and 502013CA006

6759 AN

Dear Sir/Madam:

Pursuant to 28 U.S.C. §1447, a certified copy of the District Court's Order of Remand must be mailed to the Clerk of the State Court.

Please acknowledge receipt of the Order in the above referenced case by signing and returning the enclosed copy of this letter.

Steven M. Larimore
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
s/ L. Harris

By: L. Harris
Deputy Clerk



Enclosures

16 JUN -2 AM 9:41
SHANNON R. BECK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CIVIL 2

400 N. Miami Ave.
Room 8N09
Miami, FL 33128
(305) 523-5100

299 E. Broward Blvd.
Room 108
Ft. Lauderdale, FL 33301
(954) 769-5400

701 Clematis Street
Room 402
West Palm Beach, FL 33401
(561) 803-3400

300 South Sixth Street
Fort Pierce, FL 34950
(772) 467-2330

301 Simonton Street,
Room 130
Key West, FL 33040
(305) 295-8100

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 9:16-CV-80747-RLR

JULIE GONZALEZ,

Plaintiff,

v.

LLOYD G. WICKBOLDT,

Defendant.

ORDER REMANDING CASE TO STATE COURT

THIS CAUSE is before the Court upon a *sua sponte* review of the record. The Court has carefully considered *pro se* Plaintiff/Petitioner's Petition with Memorandum in Support for Notice of Removal [DE 1] and Defendant/Respondent's Motion for Remand [DE 8] and is otherwise fully advised in the premises. For the reasons set forth below, this action is **REMANDED** to the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida.

In her Petition, Plaintiff/Petitioner Julie Gonzalez ("Ms. Gonzalez") seeks to remove two actions pending in the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida, both of which appear to be connected to the dissolution of the marriage between Ms. Gonzalez and Defendant/Respondent Lloyd G. Wickboldt. As far as the Court can discern, Ms. Gonzalez relies on 28 U.S.C. § 1443, which permits removal of a civil action "[a]gainst any person who is denied or cannot enforce in [state court] a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof," or a civil action "for any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law." It is unclear

whether and to what extent Plaintiff also relies on the provisions of 28 U.S.C. § 1441 to establish the jurisdiction of this Court.

“Because removal jurisdiction raises significant federalism concerns, federal courts are directed to construe removal statutes strictly.” *Univ. of S. Alabama v. Am. Tobacco Co.*, 168 F.3d 405, 411 (11th Cir. 1999) (citing *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108–09 (1941)). “Indeed, all doubts about jurisdiction should be resolved in favor of remand to state court.” *Id.* (citing *Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1095 (11th Cir. 1994)).

The Court concludes that removal is improper whether Ms. Gonzalez relies on 28 U.S.C. § 1441 or 28 U.S.C. § 1443. To the extent Ms. Gonzalez relies on 28 U.S.C. § 1441, it does not appear that the two actions Ms. Gonzalez seeks to remove arise “under the Constitution, laws, or treaties of the United States,” nor has Ms. Gonzalez established diversity of citizenship. To the extent Ms. Gonzalez relies on 28 U.S.C. § 1443, removal is improper because the two actions Ms. Gonzalez seeks to remove do not appear to implicate equality-based rights cognizable under that section. *See Jimenez v. Wizek*, No. 15-11861, 2016 WL 626028, at *1–2 (11th Cir. Feb. 17, 2016) (noting that the Supreme Court has interpreted 28 U.S.C. § 1443 to apply only to rights that are granted in terms of racial equality, as distinguished from broad constitutional rights guaranteed to all). This Court therefore lacks jurisdiction, and remand is appropriate.


For the foregoing reasons, it is **ORDERED AND ADJUDGED** as follows:

1. This case is **REMANDED** to the Fifteenth Judicial Circuit Court in and for Palm Beach County, Florida, case numbers 502010DR003810XXXXSB and 502013CA006759XXXXMB.
2. The Clerk of Court is instructed to **CLOSE** this case.
3. All deadlines are **TERMINATED**, all hearings are **CANCELLED**, and all pending

motions are **DENIED AS MOOT**.

DONE and ORDERED in Chambers, Fort Pierce, Florida, this 24th day of May, 2016.

Copies furnished to:
Counsel of record


ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

