

FILED

AUG 7 2017

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

Clerk, U.S. District Court
Texas Eastern

Cause No.: 5:17-cv-00131

ROCKY D. WRIGHT,)	In a removal from the 76-276th District
Petitioner,)	Court of Titus County, Texas
)	
v.)	State case number: 38360
)	(<i>"In the Interest of S.A.W., a Child"</i>)
SHELLY N. SANDERS, et. al,)	
Respondents.)	Judges Woodson & Rolston, presiding

Third Emergency Demand Motion to Quash All Post-Removal Actions by the State Court, and Further Demand for Appropriate Injunction(s)

Comes now Petitioner, Rocky D. Wright, still moving the Court in emergency to QUASH all wholly bogus "orders" and "acts" of the instant state court *done knowingly after removal to this federal Court was already duly perfected and duly noticed upon all state court officers*, thusly:

Petitioner duly notices all persons of the direct relevance of 42 USC § 1985, Conspiracy to Interfere with Civil Rights, and also of parallel 42 USC § 1986, Action for Neglect to Prevent.

THIRD EMERGENCY DEMAND MOTION TO QUASH

Petitioner incorporates in its entirety by reference, the same as if it had been fully set forth herein (H.I.), both of the two (2) prior, directly-related, and still-pending Emergency Motions to Quash the very same rogue and disdainful state court's previous bogus and wholly void "orders" and "acts" unlawfully issued and performed without any jurisdiction whatsoever anytime on or after Friday the 7th of July, 2017, i.e., after removal to this federal Court had already been duly perfected (*id.*) and after all parties, their counsel, and the state court clerk were duly notified. *Id.*

ALL SUCH STATE COURT ORDERS/ACTS ARE EXPRESSLY AND CLEARLY VOID

Little question exists that federal jurisdiction attaches when a party files the removal petition in federal court. See DeMoss v. Kelly Serv., Inc., 355 F. Supp. 1111, 1113 (D.P.R. 1972) (jurisdiction of federal court attaches when party files removal petition), aff'd, 493 F. 2d 1012 (1st Cir. 1974). In Master Equip. Inc. v. Home Ins. Co., 342 F. Supp. 549, 552 (E.D. Pa. 1972), the court observed that filing a removal petition in the state court merely functioned as a notice of the superseding federal jurisdiction and, in the event of conflicting proceedings during the interlude before that filing, federal jurisdiction predominated. These facts indicate that federal jurisdiction attaches *even before completion of the removal proceedings in state court. Id.*

However again, this Petitioner has already duly advised and reemphasizes to this Court that all such proper "second step" notice to the state court and state parties had already been duly performed in the manner provided by law, hence there is not even any first question of the above.

The federal court's assertion of removal jurisdiction places the state court's jurisdiction in a state of suspension until such time as the federal court remands the case to state court. Any proceedings that occur in the state court between the filing of a copy of the federal removal petition in the state court and the reinvestment of jurisdiction that occurs upon the remand of the case to the state court are **void**.

In the event of conflicting proceedings during the interim, federal jurisdiction prevails over state jurisdiction, and many courts have held the actions of the state court to be a *coram non judice* and absolutely void. Steamship Co. v. Tugman, 106 U.S. 118, 122 (1882). In South Carolina v. Moore, 447 F.2d 1067 (4th Cir. 1971), for example, Circuit Judge Clement Haynsworth observed that:

It is clear, however, that § 1446, in providing for the filing of the petition in the district court while promptly thereafter filing a copy in

the state court and giving notice to adverse parties was designed to make the removal effective by the performance of those acts. **The removal was no longer dependent upon any judicial act in any state or federal court....**

Since the adoption of § 1446, it has been uniformly held that the state court loses all jurisdiction to proceed immediately upon the filing of the petition in the federal court and a copy in the state court. Under these holdings **any proceedings in the state court after the filing of the petition and prior to a federal remand order are absolutely void, despite subsequent determination that the removal petition was ineffective.** This rule has been accepted by numerous scholarly commentators as a correct statement of existing law under § 1446. (emphases added)

Id. at 1073 (footnotes omitted); *see also Johnson v. Estelle*, 625 F.2d 75, 77 (5th Cir. 1980) (dismissal and remand of removal petition insufficient to reinstate jurisdiction in state court, while second petition remained in federal court); *United States v. Ohio*, 487 F.2d 936, 943 (Temp. Emer. Ct. App. 1973) (after removal, state court shall proceed no further unless remanded), *aff'd sub nor. Fry v. United States*, 421 U.S. 542 (1975); *Allman v. Hanley*, 302 F.2d 559, 562 (5th Cir. 1962) (upon compliance with § 1446, state court loses jurisdiction). The state court's jurisdiction is not restored unless and until the federal court remands the case. *See Lowe v. Jacobs*, 243 F.2d 432, 433 (5th Cir. 1957), cert. denied, 355 U.S. 842 (1957); *Styers v. Pico, Inc.*, 236 Ga. 258, 223 S.E.2d 656, 657 (1976); *see also Adair Pipeline Co. v. Pipeliners Local Union No. 798*, 203 F. Supp. 434, 437 (S.D. Tex. 1962) (when parties have met § 1446 removal requirements, state court can no longer proceed), *aff'd*, 325 F.2d 206, 206 (5th Cir. 1963).

Although the authorities generally agree, one court has indicated *in dicta* that a state court's post-removal actions may be valid, rather than void, if the federal court determines that the state court lacked jurisdiction over the removed case. *Styers*, 223 S.E.2d at 657. That *dicta* is clearly

erroneous because it validates the actions of a state court that had *chosen* to ignore, and therefore undermine, a federal court's right to determine whether the jurisdiction that it was exercising pursuant to the removal statute should be withdrawn. A federal court and a state court should not seek to exercise simultaneous jurisdiction over a case. Courts can maintain orderly procedure only if they hold void any state court proceedings after the filing of the removal petition and prior to a federal remand order, regardless of a subsequent determination that the removal petition was ineffective. *South Carolina v. Moore*, 447 F.2d 1067, 1073 (4th Cir. 1971).

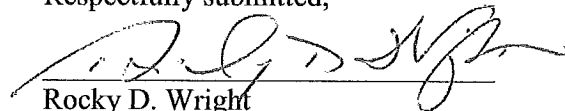
CONCLUSION AND MANDATORY RELIEF REQUIRED BY LAW

It is wholly immaterial and irrelevant that this Court has erroneously and grievously mistaken and fundamentally mischaracterized the true nature and issues of this direct facial challenge case in federal court to the alleged flagrantly unconstitutional existence of the state statutory schemes and/or at least portions of them, i.e., valid actions clearly happening routinely in federal courts, as Petitioner's formal Objections to Report and Recommendations has clearly demonstrated in regards to the magistrate's repugnant and gross incompetence regarding these instant matters, as no federal court can ever attempt to apply reverse-discriminatory "racial litmus tests" to the very equal right of access itself, both to a clearly written prosecutorial federal statute, or to this Court.

Regardless, ALL of the state court's post-removal actions are clearly and expressly VOID.

WHEREFORE, the Petitioner *again* moves the Court in emergency to swiftly **QUASH** all orders or acts falsely done on or after July 7, 2017 by the instant state court as wholly void *after removal had been duly perfected*, to also ENJOIN the state court and its officers from attempting any further acts whatsoever, and prays for all further relief true and just within these premises.

Respectfully submitted,


Rocky D. Wright

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Hughes Springs, TX 75656
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Email: rockyatra09@gmail.com
Pro Se Petitioner Party of Record

CERTIFICATE OF SERVICE

I hereby certify: that on this 7th day of August, 2017, a true and complete copy of the above third emergency demand motion to quash, by depositing the same via first class postage prepaid mail, USPS or equivalent postal carrier, has been duly served on each of the following:

(Respondent Sanders)
Shelly N. Sanders
12401 Kara Lynn Place
Tyler, TX 75704

(Third Party/Intervenor State of Texas)
c/o Attorney General Kenneth Paxton
P.O. Box 12548
Austin, TX 78711-2548

(State clerk Debra Abston, 276th District)
Debra Abston, District Clerk
Titus County District Clerk
100 West First Street, Suite 204
Mount Pleasant, TX 75445
[VIA CERTIFIED RRR MAIL / EQUIV]

(State judge Robert Rolston, 276th District)
Robert M. Rolston, SBN #17221000
c/o Titus County District Clerk
100 West First Street, Suite 204
Mount Pleasant, TX 75445
[VIA CERTIFIED RRR MAIL / EQUIV]

(Newest state court counsel for Sanders)
Matthew L. Thigpen, SBN #24056425
Ladd & Thigpen, P.C.
223 S. Bonner Avenue
Tyler, TX 75702
[VIA CERTIFIED RRR MAIL / EQUIV]


(Recent state court counsel for Sanders)
Ramsey R. Strube, SBN #24060677
The Law Office of Ramsey Strube, P.L.L.C.
114 College Street
Pittsburg, TX 75686
[VIA CERTIFIED RRR MAIL / EQUIV]

and also, likewise served and/or noticed upon each of the following directly interested parties:

The County of Titus, Texas
c/o Brian P. Lee, County Judge
100 West First Street
Suite 200
Mt. Pleasant, TX 75455
[VIA CERTIFIED RRR MAIL / EQUIV]

Linda A. Acevedo
Chief Disciplinary Counsel
State Bar of Texas
14651 N. Dallas Parkway, Suite 925
Dallas, TX 75254
[VIA CERTIFIED RRR MAIL / EQUIV]

State Commission on Judicial Conduct
P.O. Box 12265
Austin, TX 78711-2265
[VIA CERTIFIED RRR MAIL / EQUIV]


Rocky D. Wright