

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-2075

UNITED STATES OF AMERICA, acting through the Rural Housing Service or
successor agency; UNITED STATES DEPARTMENT OF AGRICULTURE,

Plaintiffs - Appellees,

v.

HARRY MONTGOMERY,

Defendant - Appellant,

and

GERMANIQUE CHATMAN, a/k/a Germanique R. Chatman,

Defendant.

Appeal from the United States District Court for the District of South Carolina, at
Florence. R. Bryan Harwell, District Judge. (4:17-cv-01556-RBH)

Submitted: February 22, 2018

Decided: February 26, 2018

Before TRAXLER and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit
Judge.

Dismissed by unpublished per curiam opinion.

Harry Montgomery, Appellant Pro Se. Taylor A. Peace, Donald William Tyler, Sr.,
HARRELL, MARTIN & PEACE, P.A., Chapin, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Harry Montgomery appeals from the district court's order adopting the report and recommendation of the magistrate judge and granting Plaintiff's motion to remand the foreclosure case filed against Montgomery back to state court. We dismiss the appeal.

Remand orders are generally "not reviewable on appeal or otherwise." 28 U.S.C. § 1447(d). The Supreme Court has explained that the appellate restrictions of "§ 1447(d) must be read in pari materia with § 1447(c), so that only remands based on grounds specified in § 1447(c) [i.e., lack of subject matter jurisdiction and defects in removal procedures] are immune from review under § 1447(d)." *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 127 (1995). Whether a remand order is reviewable is not based on a district court's explicit citation to § 1447(c); "[t]he bar of § 1447(d) applies to any order invoking substantively one of the grounds specified in § 1447(c)." *Borneman v. United States*, 213 F.3d 819, 824–25 (4th Cir. 2000).

Here, the district court gave numerous reasons for its remand, including lack of subject matter jurisdiction and untimely filing of the notice of removal. Because these reasons fall within the ambit of § 1447(c), we lack jurisdiction to review the merits of the district court's order. Thus, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED