

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 20-14263

Non-Argument Calendar

KONDAUR CAPITAL,
FANNIE MAE,

Plaintiffs-Appellees,

versus

ROBERTO SOLER,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:20-cv-24403-BB

Before WILSON, ROSENBAUM, and LUCK, Circuit Judges.

PER CURIAM:

This appeal arises out of a state-court foreclosure action against Roberto Soler, the *pro se* defendant-appellant here. Seeking to prevent a foreclosure sale from going forward in October 2020, Soler filed a notice removing the case to federal district court based on federal-question jurisdiction, *see* 28 U.S.C. § 1331. He asserted that a federal foreclosure moratorium on federally insured mortgages barred the plaintiffs-appellees from going forward with the sale.¹ The district court promptly reviewed the case and, acting on its own motion, issued an order remanding it to state court for lack of federal subject-matter jurisdiction.

Soler appeals the remand order. Liberally construing his briefing on appeal, we understand his arguments on appeal to be that the underlying state-court foreclosure action and sale are void. But he does not challenge the court's reasoning for remanding the case to state court. As a result, he has abandoned any challenge on

¹ In response to the COVID-19 pandemic, and under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 281, § 4022 (2020), the Secretary of Housing and Urban Development (HUD) in March 2020 authorized a 60-day moratorium on foreclosures of mortgages insured by the Federal Housing Administration and evictions of persons from properties securing FHA-insured mortgages. HUD issued multiple extensions of the moratorium through at least December 2020.

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appeal to the court's ruling, which otherwise appears to be correct. We affirm.

We review *de novo* whether the district court has subject-matter jurisdiction. *Patel v. Hamilton Med. Ctr., Inc.*, 967 F.3d 1190, 1193 (11th Cir. 2020). In doing so, we liberally construe the filings of *pro se* parties. *Sconiers v. Lockhart*, 946 F.3d 1256, 1262 (11th Cir. 2020). Still, though, “issues not briefed on appeal by a *pro se* litigant are deemed abandoned.” *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008). And when a litigant fails to brief the grounds for the district court's ruling, it “follows that the judgment is due to be affirmed.” *Sapuppo v. Allstate Floridian Ins.*, 739 F.3d 678, 681–83 (11th Cir. 2014).

In general, a state-court case can be removed to federal court if it could have been brought in federal court originally. 28 U.S.C. § 1441(a). Original federal jurisdiction exists where the case arises under federal law, *id.* § 1331(a), or where diversity of citizenship and a sufficient amount in controversy are present, *id.* § 1332(a). A case can also be removed to federal court to enforce federal civil-rights law. *See id.* § 1443. But district courts must remand a case to state court “[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction.” *Id.* § 1447(c). “[T]he party invoking the court's jurisdiction bears the burden of proving, by a preponderance of the evidence, facts supporting the existence of federal jurisdiction. *McCormick v. Aderholt*, 293 F.3d 1254, 1257 (11th Cir. 2002).

Here, Soler has abandoned any challenge to the district court’s ruling that he failed to establish the existence of federal jurisdiction.² He argues that the foreclosure sale was void ab initio. But federal “district courts may not exercise jurisdiction absent a statutory basis,” *see Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005), and Soler does not identify one.

Nor does the record reflect the existence of federal jurisdiction. There is no indication that the state-court foreclosure action arose under federal law, that the requirements of diversity jurisdiction were satisfied³, or that Soler has been denied or unable to enforce a federal “civil right[] stated in terms of racial equality” in state court for purposes of § 1443. *See Alabama v. Conley*, 245 F.3d 1292, 1295 (11th Cir. 2001). That Soler’s notice of removal asserted a defense to foreclosure based on federal law does not authorize removal to federal court. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 393 (1987) (“a case may not be removed to federal court on the

² We lack jurisdiction to review “[a]n order remanding a case to the State court from which it was removed” for lack of jurisdiction, except where the case was “removed pursuant to section 1442 or 1443.” 28 U.S.C. § 1447(d). Because Soler cited 28 U.S.C. § 1443 as a ground for removal, we have jurisdiction to review the “whole of [the remand] order” on appeal, including whether the district court had original federal jurisdiction. *BP P.L.C. v. Mayor & City Council of Baltimore*, 141 S. Ct. 1532, 1538 (2021).

³ Notably, even if the parties are diverse, removal is barred where a “defendant[] is a citizen of the State in which [the] action is brought.” 28 U.S.C. § 1441(b)(2). This means that Soler, an apparent citizen of Florida, could not invoke federal diversity jurisdiction over the Florida state-court foreclosure action in which he was a defendant.

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basis of a federal defense”). Without a statutory basis for exercising jurisdiction, the district court properly determined that it was required to remand the case to state court. *See* 28 U.S.C. § 1447(c).

Because Soler has abandoned any challenge to the grounds for the district court’s order remanding the case for lack of subject-matter jurisdiction, and because it otherwise appears that the remand order was correct, we affirm.

AFFIRMED.