

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-2010**

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SYLVIA E. MCRAE,

Plaintiff - Appellant,

v.

SAMUEL L. EVANS, III,

Defendant - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. C. Weston Houck, Senior District Judge. (2:08-cv-01957-CWH)

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Submitted: December 16, 2008

Decided: December 19, 2008

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Before WILKINSON, MICHAEL, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Sylvia E. McRae, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sylvia E. McRae appeals the district court's order affirming the magistrate judge's order remanding her case to the South Carolina state court. Generally, "[a]n order remanding a case to the state court from which it was removed is not reviewable on appeal or otherwise." 28 U.S.C.A. § 1447(d) (West 2006). Although this section could be read expansively to apply to all remand orders, the Supreme Court has held that it must be read in conjunction with 28 U.S.C.A. § 1447(c) (West 2006). Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 711-12 (1996).

Because the remand order is based on a lack of subject matter jurisdiction, it falls within the scope of § 1447(c) and is therefore not reviewable. See 28 U.S.C.A. § 1447(c) ("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."); Ellenburg v. Spartan Motors Chassis, Inc., 519 F.3d 192, 196 (4th Cir. 2008) (holding that a remand order based on lack of subject matter jurisdiction, whether sua sponte or not, falls under § 1447(c) and is not reviewable).

Accordingly, 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