

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7322

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID ANTHONY WIGGINS,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Richard D. Bennett, District Judge. (1:16-cr-00449-RDB-1)

Submitted: February 16, 2017

Decided: February 21, 2017

Before GREGORY, Chief Judge, DUNCAN, Circuit Judge, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

David Anthony Wiggins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Anthony Wiggins appeals the district court's order remanding his state criminal prosecution to state court. We affirm.

In certain circumstances, a state criminal prosecution may be removed to federal district court. See 28 U.S.C. § 1443 (2012). Such removal is improper absent "a showing that the defendant is being denied rights guaranteed under a federal law providing for specific civil rights stated in terms of racial equality." South Carolina v. Moore, 447 F.2d 1067, 1070 (4th Cir. 1971) (internal quotation marks and citations omitted); see also Georgia v. Rachel, 384 U.S. 780, 792 (1966). "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c) (2012).

We have reviewed the record and conclude that Wiggins has not made the requisite showing for removal under § 1443. Thus, the district court lacked subject matter jurisdiction over the removed prosecution and appropriately remanded the case to state court. Accordingly, although we grant leave to appeal in forma pauperis, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are

adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED