

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1013

BANK OF AMERICA NA,

Plaintiff - Appellee,

v.

JOHNSON D. KOOLA,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at
Charleston. Richard M. Gergel, District Judge. (2:16-cv-01634-RMG)

Submitted: May 30, 2017

Decided: June 6, 2017

Before WILKINSON, NIEMEYER, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Johnson D. Koola, Appellant Pro Se. Theodore von Keller, CRAWFORD & VON
KELLER, LLC, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Johnson D. Koola seeks to appeal the district court's order adopting the recommendation of the magistrate judge and remanding this case to the South Carolina Court of Appeals, from which it was removed. Bank of America has moved to dismiss the appeal.

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. § 1447(d) (2012). The Supreme Court has instructed that “§ 1447(d) must be read *in pari materia* with [28 U.S.C.] § 1447(c), so that only remands based on grounds specified in § 1447(c) are immune from review under § 1447(d).” *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 127 (1995). Thus, § 1447(d)

is tightly circumscribed to cover only remand orders within the scope of . . . § 1447(c), based on (1) a district court's lack of subject matter jurisdiction or (2) a defect in removal other than lack of subject matter jurisdiction that was raised by the motion of a party within 30 days after the notice of removal was filed.

Doe v. Blair, 819 F.3d 64, 66 (4th Cir. 2016) (internal quotation marks omitted). “Whether a district court's remand order is reviewable under § 1447(d) is not determined by whether the order explicitly cites § 1447(c) or not.” *Borneman v. United States*, 213 F.3d 819, 824 (4th Cir. 2000).

Bank of America moved to remand within 30 days of Koola's notice of removal, and the district court remanded on the basis that removal was untimely. The district court also concluded that it lacked subject matter jurisdiction. Under the cited authorities, we are without jurisdiction to review the remand order. We therefore grant Bank of

America's motion to dismiss and 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