

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-2187

WELLS FARGO BANK, N.A.,

Petitioner - Appellee,

and

SATTERFIELD LEGAL, PLLC, SUBSTITUTE TRUSTEE; SARAH BANKS,
SUBSTITUTE TRUSTEE, ATTORNEY IN FACT,

Plaintiffs,

v.

LYNTON YATES BALLENTINE, JR.; LB INTERNATIONAL EXPRESS
TRUST, NON CORPORATE ENTITY (RELA PARTY IN INTEREST,
TERTIUS INTERVENIE),

Defendants - Appellants.

Appeal from the United States District Court for the Middle District of North Carolina, at
Greensboro. Catherine C. Eagles, District Judge. (1:17-cv-00509-CCE-JEP)

Submitted: February 26, 2018

Decided: March 7, 2018

Before WILKINSON, NIEMEYER, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Lynton Ballentine, Appellant Pro Se. Aleksandra Elzbieta Anderson, John T. Benjamin, Jr., William Earle Hubbard, LAW OFFICE OF JOHN T. BENJAMIN, JR., PA, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Appellants appeal from the district court's order adopting the report and recommendation of the magistrate judge and remanding the foreclosure action filed against Appellants 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 explicitly noted that there was no subject matter jurisdiction and cited § 1447(c). Because the basis for remand fell 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