

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

STATE OF ALABAMA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:15-CV-327-WKW
)	
STEVEN CLAYTON)	
THOMASON,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

This action is before the court on Defendant Steven Clayton Thomason’s removal of a criminal case against him in the District Court of Elmore County, Alabama. Mr. Thomason seeks to remove the action pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446. The statutes cited by Mr. Thomason, however, are inapplicable as he is attempting to remove a misdemeanor criminal case, not a civil action. The procedure for the removal of criminal prosecutions is governed by 28 U.S.C. § 1455, which provides that the notice of removal must be examined “promptly” by the district court in which the notice is filed and, “[i]f it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.” § 1455(b)(4).

Examining Mr. Thomason's notice of removal and the attached exhibits, the court finds that it is clear that Mr. Thomason has failed to adhere to the procedural requirements for removal of a state criminal action. Section 1455(b)(1) specifically requires that the notice of removal of a criminal prosecution "be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier." § 1455(b)(1). A review of the record, shows that the relevant state-court complaint was filed against Mr. Thomason on October 2, 2014. The case then proceeded to trial on January 20, 2015. Ultimately, Mr. Thomason was determined to have violated state law, and a sentence was imposed. Accordingly, Mr. Thomason has not complied with § 1455(b)(1)'s temporal requirement for removing a state criminal prosecution nor has he shown good cause for warranting leave to file outside the specified time period.

Based on the foregoing analysis, it is ORDERED that this case is REMANDED to the District Court of Elmore County, Alabama, and Mr. Thomason's pending motion to dismiss (Doc. # 3) is DENIED as moot.

The Clerk of the Court is DIRECTED to take the steps necessary to effectuate the remand.

DONE this 22nd day of May, 2015.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE