

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**CENTER GROVE WATER
USERS ASSOCIATION, INC.**

PLAINTIFF

v.

No. 4:15-cv-699-DPM

**MOSES WATTS, SR., and
RUBY WATTS**

DEFENDANTS

ORDER

This is the second eminent domain case the Wattses have removed from state court this year. *See Entergy Arkansas, Inc. v. Moses Watts and Ruby Watts*, No. 4:15-cv-557-BRW (E.D. Ark. 24 September 2015). The Wattses say the state-court proceedings have violated their federal rights. *No 1 at 3–4*. This Court must make sure it has subject matter jurisdiction. 28 U.S.C. § 1447(c); *Arbaugh v. Y & H Corporation*, 546 U.S. 500, 514 (2006).

It does not. The Wattses saw civil rights violations in the state case at least by late June 2015, when they had received and moved to set aside the state court's order of possession. *No 1 at 10. McCullough v. Ligon*, 430 F. Supp. 2d 846, 849 (E.D. Ark. 2006), *aff'd on other grounds*, 271 Fed. Appx. 547. So they had to remove the case by late July. 28 U.S.C. § 1446(b). They didn't. *No 1*. The removal is therefore untimely.

Nor have the Wattses alleged enough to remove under 28 U.S.C. § 1443. It's not enough for the Wattses to say their rights have been violated in state court; the state proceedings must run their course unless they're nearly guaranteed to fail. *Doe v. Berry*, 967 F.2d 1255, 1257-58 (8th Cir. 1992); *McCullough*, 430 F. Supp. 2d at 850.

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The Court remands this case to the Circuit Court of Jefferson County, Arkansas.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

18 November 2015