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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

MICHAEL JEROME GARRETT,

Defendants.

CASE NO. EDCV 12-0929-UA (DTB)

ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this misdemeanor criminal action to state court summarily because defendant removed it improperly.

On June 7, 2012, defendant Michael Garrett, having been charged in what appears to be a misdemeanor criminal action in Riverside County Superior Court, lodged a Notice of Removal of that action to this Court and also presented an application to proceed *in forma pauperis*. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, plaintiff could not have brought this action in federal court in the first place, in that defendant did not competently allege facts supplying either diversity or federal-question jurisdiction on the basis alleged and, therefore, removal is improper. 28

1 U.S.C. § 1441(a); see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545 U.S. 546, 563, 125
2 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Even if complete diversity of citizenship exists,
3 the action which defendant seeks to remove is a state criminal action, which cannot be
4 removed to federal court pursuant to the grounds upon which defendant seeks removal,
5 *i.e.*, 28 U.S.C. §§ 1441 and 1446. Pursuant to these statutes, only civil actions may be
6 removed to federal court. 28 U.S.C. § 1441(a).

7 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the Superior
8 Court of California, Riverside County, 4100 Main Street, Riverside, CA 92501, for lack
9 of subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a
10 certified copy of this Order to the state court; and (3) that the Clerk serve copies of this
11 Order on the parties.

12 IT IS SO ORDERED.

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15 DATED: June 18, 2012

Audrey B. Collins
16 AUDREY B. COLLINS
17 UNITED STATES DISTRICT JUDGE

18 Presented by:

19 David T. Bristow

20 David T. Bristow
21 United States Magistrate Judge
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