

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY OF SANTA ROSA, PEOPLE OF THE  
STATE OF CALIFORNIA,

Plaintiffs,

v.

RAMAN D. PATEL, et al.,

Defendants.

No. C-07-3528 MMC

**ORDER REMANDING ACTION**

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The instant action was removed to federal court on July 6, 2007 and reassigned to the undersigned on July 20, 2007. Defendants purport to remove the action pursuant to 28 U.S.C. § 1443, which, in relevant part, provides: "Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending: (1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof." See 28 U.S.C. § 1443(1).

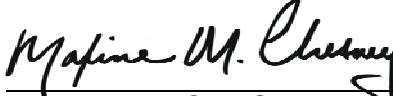
A petition for removal under § 1443(1) must satisfy a two-part test. See Patel v. Del Taco, Inc., 446 F.3d 996, 998 (9th Cir. 2006). "First, the petitioners must assert, as a defense to the prosecution, rights that are given to them by explicit statutory enactment

1 protecting equal racial civil rights.” *Id.* at 999 (internal quotation and citation omitted).  
2 “Second, petitioners must assert that the state courts will not enforce that right, and that  
3 allegation must be supported by reference to a state statute or constitutional provision that  
4 purports to command the state courts to ignore federal rights.” *Id.* (internal quotation and  
5 citation omitted). Although defendants contend the instant action is being prosecuted  
6 against them because of their race in violation of their rights under 42 U.S.C. §§ 1981 and  
7 1982 and the Equal Protection Clause of the Fourteenth Amendment to the United States  
8 Constitution, (see Notice of Removal ¶¶ 7, 12), they do not, and cannot, point to any  
9 provision of California law “that purports to command the state courts to ignore federal  
10 rights.”

11 Accordingly, the instant action is hereby REMANDED to the California Superior  
12 Court for the County of Sonoma.

13 **IT IS SO ORDERED.**

14 Dated: July 24, 2007

  
MAXINE M. CHESNEY  
United States District Judge

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