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28E-FILED on 12/2/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

STATE OF CALIFORNIA,

Plaintiff,

vs.

ALBERTA ROSE JONES (in care of RYAN
G. JONES)

No. C-09-00376 RMW

ORDER OF REMAND


Plaintiff Alberta Rose Jones (“Jones”), proceeding *pro se*, filed a notice of removal of a state criminal action in which she or her son or both are apparently defendants. The state court matter appears to be case no. EE806817 pending in the Santa Clara County Superior Court. The court ordered Jones to show cause why this action should not be dismissed for failure to state a claim. At the order to show cause hearing, the court expressed doubt as to whether a criminal case could be removed. Although Jones correctly argued that criminal cases are subject to removal, the court finds no basis for removal in this case.

28 U.S.C. § 1443 provides for the removal of state criminal prosecutions, but only in limited circumstances. A petition for removal pursuant to 28 U.S.C. § 1443 must satisfy two criteria: “First, the petitioners must assert, as a defense to the prosecution, rights that are given to them by explicit statutory enactment protecting equal racial civil rights. Second, petitioners must assert that the state courts will not enforce that right, and that allegation must be supported by reference to a state statute

1 or a constitutional provision that purports to command the state courts to ignore the federal rights.
2 Bad experiences with the court in question will not suffice.” *People of State of Cal. v. Sandoval*, 434
3 F.2d 635, 636 (9th Cir. 1970). Jones states that “I am the motion of the defendant and am therefore
4 entitled to remove this case as a family member who has repeatedly asked for a bail reduction and
5 motion hearings which have repeatedly been denied.” Notice of Removal ¶ 3. Jones’s notice of
6 removal does not satisfy the requirements of § 1443. She alleges only that the state court has
7 improperly denied her requests for reduced bail for her son. Furthermore, no mention is made of a
8 law “providing for civil rights stated in terms of racial equality,” which is required for removal.
9 *State of Georgia v. Rachel*, 384 U.S. 780, 792 (1966). The case is remanded to the Superior Court
10 for the County of Santa Clara.

11 The clerk shall close the file.

12
13 DATED: 11/25/09



RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been sent to:**

2 **Defendant:**

3 Alberta Rose Jones
4 1144 Tangerine Way
5 Sunnyvale, CA 94087

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Dated: 12/2/09

CCL
Chambers of Judge Whyte

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