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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

<p>SHANNON MCFARLAND,</p> <p>Plaintiff,</p> <p>v.</p> <p>COUNTY OF SANTA CRUZ, SHERIFF PHIL WOWAK, OFFICER WILLIAM GAZZA, OFFICER CHRISTOPHER HANKES, OFFICER JOHN HABERMEHL, BRUCE MCFARLAND, and DOES 1-99, inclusive,</p> <p>Defendants.</p>	<p>Case No. C-12-01727 RMW</p> <p>ORDER VACATING REMAND ORDER AND DISMISSING THE CASE</p>
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This court granted plaintiff Shannon McFarland's motion to remand on the basis that the court lacks subject matter jurisdiction over plaintiffs remaining claim against defendant Bruce McFarland. Dkt. No. 49 ("Remand Order"). Because plaintiff never filed a state court action, the appropriate remedy is not a remand, but rather a dismissal for lack of subject matter jurisdiction.

Accordingly, this court hereby VACATES the Remand Order and DISMISSES the case for lack of subject matter jurisdiction. *See* Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.").

Dated: May 13, 2013



Ronald M. Whyte
United States District Court Judge

REMAND ORDER
Case No. C-12-01727 RMW
ALG