

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

PEOPLE OF THE STATE OF CALIFORNIA,  vs.  ANDREW J. MOORE,  <hr style="width: 100%;"/>	Plaintiff,          Defendant.
---	--

CASE NO. 07 CV 2059 JM (BLM)

**ORDER *SUA SPONTE*  
REMANDING ACTION TO STATE  
COURT AND DECLARING  
MOTIONS TO PROCEED *IN  
FORMA PAUPERIS* AND FOR  
SUMMARY JUDGMENT MOOT**


On October 29, 2007, Defendant filed a Notice of Removal of a criminal case pending against him in San Diego Superior Court. In addition, Defendant names “Officer stone/ Victor Morel #2312” as a third-party defendant. Defendant seeks to remove the criminal proceeding pursuant to 28 U.S.C. § 1443(1). Defendant also filed motions to proceed *in forma pauperis* (see Docket no. 2) and for summary judgment (see Docket no. 3).

Section 1443 permits removal of certain state court criminal matters. To invoke federal jurisdiction under § 1443, not only must a criminal prosecution be pending in state court, but the state court defendant must demonstrate that he or she “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.” 28 U.S.C. § 1443(1). Upon careful review of the Notice of Removal, Defendant fails to identify any cognizable civil right not enforceable in state court. Thus, pursuant to 28 U.S.C. § 1446(c)(4), this action is summarily remanded to state court. Accordingly,

1 Defendant's motions to proceed *in forma pauperis* and for summary judgment are hereby declared  
2 moot. The Clerk of the Court is instructed to close the file.

3 **IT IS SO ORDERED.**

4 DATED: November 2, 2007

5   
6 Hon. Jeffrey T. Miller  
United States District Judge

7 cc: All parties  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28