

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

MICHAEL WINTER,

Plaintiff,

v.

THOMAS ASHMORE, TERRENCE
LANGIN, and STEPHEN TOKARZ,

Defendants.

3:09-cv-732 (CSH)

REMAND ORDER

HAIGHT, Senior District Judge:

_____ This action was commenced in the Superior Court of Connecticut, Judicial District of Waterbury, and removed to this Court on the basis of original jurisdiction, under the reasonable assumption that Plaintiff intended to bring his false arrest and malicious prosecution claims under 42 U.S.C. § 1983, although the complaint does not explicitly state as much. Plaintiff did not move to remand. Defendants moved to dismiss the complaint, arguing that Plaintiff's claims are barred by the statute of limitations. [Doc. 10] In response, Plaintiff contended that this Court lacks subject matter jurisdiction because "the plaintiff has not pled any violation of federal law [and] no other independent basis exists for federal jurisdiction." [Doc. 11 at 7]

Thus, in his opposition to the motion to dismiss, Plaintiff has expressly disavowed making any claim pursuant to federal law. Given that this Court lacks original or diversity jurisdiction (as all parties are citizens of Connecticut), the Court issued an order to show cause [Doc. 18] why this case should not be remanded to state court because this Court lacks subject matter jurisdiction. In their response to the order to show cause, Defendants state that, "If the plaintiff is disavowing and/or withdrawing any federal claims, then the defendants do not object

to the remanding of this case to the Superior Court.” [Doc. 19 at 3] Plaintiff has not filed any response to the order to show cause, and the time for doing so has expired.

Therefore, in the absence of subject matter jurisdiction, and absent objection from either party, the case is hereby remanded to the Superior Court of Connecticut, Judicial District of Waterbury.

It is SO ORDERED.

Dated: New Haven, Connecticut

January 8, 2010

/s/ Charles S. Haight, Jr.
Charles S. Haight, Jr.
Senior United States District Judge