

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

U.S. NATIONAL BANK ASSOCIATION CIVIL ACTION NO. 11-cv-1277
VERSUS JUDGE HICKS
TOM FRANKLIN MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

U.S. Bank National Association, as Trustee (“Bank”), commenced a foreclosure action in the 236th Judicial District Court, Tarrant County, Texas, based on allegations that Tom Franklin defaulted on a loan secured by real estate in Fort Worth. The Bank alleged that the outstanding principal balance on the loan is just over \$95,200.

Mr. Franklin filed a Notice of Removal with this court, the Western District of Louisiana, Shreveport Division. He alleges that he owns the house at issue and that Bank is attempting to take it illegally “for racial and discriminatory reasons.” The Notice of Removal invokes 28 U.S.C. § 1441(a) and 1442(a)(1). Those statutes require that a case be removed to the federal court for the district and division embracing the place where the state court action is pending. Fort Worth is far outside the bounds of this division, but Bank waived this procedural defect when it failed to file a motion to remand within 30 days of the removal.

Mr. Franklin did not pay the \$350 filing fee to remove this case. He filed a motion for leave to proceed in forma pauperis, but he did not complete any of the income, debt, or monthly living expense information required by the form. The court issued an order (Doc. 4) that denied the motion, ordered Mr. Franklin to pay the \$350 filing fee within 30 days, and

warned that failure to do so could result in the petition being stricken. Mr. Franklin then filed a motion for extension of time to pay the filing fee. The court issued an order (Doc. 6) that granted an extension through August 31, 2011, and stated that no further extensions would be granted.

More than a month has passed since the August 31, 2011 deadline. There is no evidence of record that the filing fee has been paid. Just as the court would dismiss a complaint in the absence of a filing fee, it is appropriate to remand this case. Accordingly, subject to the stay set forth in the accompanying order, this case is remanded to the 236th Judicial District Court, Tarrant County, Texas, where this action was pending as Cause No. 236 252977 11.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 4th day of October, 2011.



MARK L. HORNSBY
UNITED STATES MAGISTRATE JUDGE