

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 13-11048-RGS

JONATHAN BLODGETT, DISTRICT ATTORNEY and
COMMONWEALTH OF MASSACHUSETTS

v.

SERGEANT MATTHEW FAIRBANKS, U.S.M.C.

ORDER TO SHOW CAUSE AS TO THE
PROPRIETY OF A NOTICE OF REMOVAL

April 29, 2013

STEARNS, D.J.

Sergeant Fairbanks, according to the Notice of Removal, is a defendant facing a probation violation hearing in the Massachusetts state court, apparently after an earlier admission of sufficient facts as to violent criminal acts and firearms violations arising out of a domestic abuse complaint. He now seeks to remove the probation matter to the United States District Court pursuant to 28 U.S.C. § 1442a. On the face of the Notice, it would appear that removal is inappropriate. Fairbanks does not allege to have undertaken any act done under the color of his office as a member of the United States armed forces or to be claiming any right, title, or authority under the law of the United States respecting the armed forces, or under the law of war. Notwithstanding, the court will grant Fairbanks leave to file a memorandum of law taking exception to

the court's tentative conclusion. A copy of the Notice of Removal, this Order, and any such memorandum of law will be served by Fairbanks on District Attorney Blodgett for such response as he may promptly choose to file. In the interim, the Notice of Removal will be held in abeyance by the Clerk pending further order of the court.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE