

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STATE OF MISSOURI,)	
)	
Plaintiff,)	
)	
v.)	No. 4:13CV198 SPM
)	
CLARENCE HOLMES,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Defendant Clarence Holmes seeks to remove a criminal proceeding, in which he has been charged with driving with a revoked or suspended license, pursuant to 28 U.S.C. § 1443(1). The Court has reviewed the notice of removal and will remand the case pursuant to 28 U.S.C. § 1446(c)(4).

As grounds for removal, defendant states that he is a sovereign of the Nation of Yisrael,¹ and therefore, he is not subject to the laws of Missouri or the United States.

Title 28 U.S.C. § 1443 states, in relevant part:

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of

¹The Nation of Yisrael appears to be a fictional country located, according to defendant, near Black Jack, Missouri.

the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who 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 . . .

To demonstrate that removal is proper under § 1443(1), a defendant “must show that he relies upon a law providing for equal civil rights stated in terms of racial equality.” Neal v. Wilson, 112 F.3d 351, 355 (8th Cir. 1997). “[R]emoval is not warranted by an assertion that a denial of rights of equality may take place and go uncorrected at trial. Removal is warranted only if it can be predicted by reference to a law of general application that the defendant will be denied or cannot enforce the specified federal rights in the state courts.” State of Ga. v. Rachel, 384 U.S. 780, 800 (1966)).

Defendant’s grounds for removal are legally frivolous. They state no ground cognizable in federal court for removal, and the Court is unable to view any possible amendment to the petition that could bring the case within the rule permitting removal. As a result, the Court will remand this action back to the state court.

Additionally, defendant has filed a motion to proceed in forma pauperis. The motion will be granted.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion to proceed in forma pauperis [Doc. 3] is **GRANTED**.

IT IS FURTHER ORDERED that defendant's emergency motion for release [Doc. 5] is **DENIED**.

IT IS FURTHER ORDERED that this action is **REMANDED** to the Circuit Court of St. Charles County.

IT IS FURTHER ORDERED that the Clerk shall forward a copy of this Order to the Circuit Court of St. Charles County, with reference to State v. Clarence A. Holmes, 1211-CR06779.

Dated this 12th day of February, 2013.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE