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14UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CITY OF NORTH LAS VEGAS,

Plaintiff,

v.

MICHAEL C. DAVIS,

Defendant.

Case No. 2:13-cv-00156-MMD-NJK

ORDER

(Plaintiff's Motion to Remand  
– dkt. no. 15)**I. SUMMARY**

Before the Court is Plaintiff City of North Las Vegas' ("City") Motion to Remand to State Court. For the reasons stated below, the Motion is granted.

**II. MOTION TO REMAND**

On September 25, 2012, by way of a traffic stop, while driving his motorcycle, Defendant Michael Davis was stopped by Officer Feldman. Officer Feldman issued Davis a citation for failing to abide by City's helmet law, NRS § 486.231. On January 30, 2013, Davis was arraigned in Municipal Court for the City of North Las Vegas, case no. TR25000-12.

Mr. Davis proceeded to improvidently remove this action on January 30, 2013. 28 U.S.C. § 1441, the statute governing removal of actions to federal court, allows for "any *civil* action brought in a State court . . ." to be removed to federal district court. It plainly does not allow for removal of *criminal* cases. Davis' case in Municipal Court regards a criminal infraction. Despite Defendant's convoluted arguments to the contrary

1 contained in his Opposition Brief (dkt. no. 19), the case against Davis cannot be  
2 construed as a civil action. Accordingly, this case must be remanded to Municipal  
3 Court.

4 **III. ATTORNEYS' FEES AND COSTS**

5 City also requests that the Court award it attorney fees and costs because  
6 Defendant unreasonably removed this case.

7 28 U.S.C. §1447(c) provides that “[a]n order remanding the case may require  
8 payment of just costs and any actual expenses, including attorney fees, incurred as a  
9 result of the removal.” The statute “affords a great deal of flexibility to the district courts  
10 in fashioning” such awards. *Morgan Guaranty Trust v. Republic of Palau*, 971 F.2d 917,  
11 924 (2d Cir. 1992). When there is an absence of any reasonable basis for the removal,  
12 an award of fees and costs is appropriate. *Children’s Vill. v. Greenburgh Eleven*  
13 *Teachers’ Union Fed’n of Teachers, Local 1532*, 867 F. Supp. 245, 248 (S.D.N.Y.  
14 1994).

15 The Court agrees with City that there was no reasonable basis for removal here.  
16 As such, City is directed to submit a bill of costs within fourteen (14) days of this Order,  
17 as set forth in LR 54-1, and to file a motion for attorney fees within fourteen (14) days of  
18 this Order, as set forth in LR 54-16(a).


19 **IV. CONCLUSION**

20 IT IS HEREBY ORDERED that Plaintiff’s Motion to Remand (dkt. no. 15) is  
21 GRANTED.

22 The Clerk of the Court is HEREBY ORDERED to close this case.

23 Plaintiff should file a bill of costs and motion for attorney fees as described  
24 herein.

25 DATED THIS 15<sup>th</sup> day of April 2013.

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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE