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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DREW J. RIBAR,

Plaintiff,

v.

Case No. 3:24-cv-00103-ART-CLB

ORDER TO SHOW CAUSE WHY
REMOVAL WAS PROPER

STATE OF NEVADA EX. REL.
NEVADA DEPARTMENT OF
CORRECTIONS, CARSON CITY AND
ITS SHERIFFS OFFICE, CARSON
CITY DISTRICT ATTORNEYS OFFICE,
CARSON CITY MANAGERS OFFICE,
FERNANDEIS FRAZAIER IN HIS
OFFICIAL CAPACITY AS WARDEN OF
NORTHERN NEVADA
CORRECTIONAL, AARON RYDER IN
HIS OFFICIAL CAPACITY AS AN
OFFICER OF NEVADA DEPARTMENT
OF CORRECTIONS, ROBERT SMITH
IN HIS OFFICIAL CAPACITY AS AN
OFFICER OF NEVADA DEPARTMENT
OF CORRECTIONS, JASON BUENO
IN HIS OFFICIAL CAPACITY AS AN
OFFICER OF CARSON CITY
SHERIFF, SEAN PALAMAR RYDER IN
HIS OFFICIAL CAPACITY AS AN
OFFICER OF CARSON CITY
SHERIFF, TYSON DARIN LEAGUE
RYDER IN HIS OFFICIAL CAPACITY
AS AN OFFICER OF CARSON CITY
DISTRICT ATTORNEY, JAMES
DZURENDA (DIRECTOR NEVADA
DEPARTMENT OF CORRECTIONS),
JASON D. WOODBURY (CARSON
CITY DISTRICT ATTORNEY),
KENNETH T. FURLONG IN HIS
CAPACITY AS SHERIFF CARSON
CITY, NV, OFFICER/DEPUTY/J. DOE
1-99,

Defendants.

On January 29, 2024, Plaintiff Drew J. Ribar filed the instant case in the First Judicial District Court of Nevada, alleging several federal constitutional and state law claims (ECF No 1-1.) Carson City Defendants timely filed a petition for

1 removal in the District of Nevada on February 29, 2024. (ECF No. 1.)

2 Under 28 U.S. § 1446(a)(2)(A), “When a civil action is removed solely under
3 section 1441(a), all defendants who have been properly joined and served must
4 join in or consent to the removal of the action.” 28 U.S. § 1441(a) permits removal
5 based on original subject matter jurisdiction of the federal courts. “The defendant
6 always has the burden of establishing that removal is proper,” *Hunter v. Philip*
7 *Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009). Federal courts must consider
8 *sua sponte* issues that concern subject-matter jurisdiction. *Kwai Fun Wong v.*
9 *Beebe*, 732 F.3d 1030, 1035–36 (9th Cir. 2013).

10 Carson City Defendants’ petition for removal cites 28 U.S.C. § 1441(a) as
11 the basis for removal, as there is federal question jurisdiction over plaintiff’s
12 constitutional claims under 28 U.S.C. § 1331. (ECF No. 1 at 2.) Thus, the
13 requirement under 28 U.S. § 1446(a)(2)(A) that all properly joined and served
14 defendants join or consent to removal applies.

15 Here, it appears that Carson City Defendants removed this action without
16 several of the other Defendants listed in the state court complaint (ECF Nos. 1;
17 1-1.) It does not appear that those Defendants were served with the petition for
18 removal. (*Id.* at 4.) In the statement of removal, Carson City Defendants state that
19 they “are not aware that any of the other Defendants were served prior to the
20 Defendants’ filing of the Petition for Removal.” (ECF No. 6 at 3.) However, Plaintiff
21 has submitted an affidavit alleging service of Defendants State of Nevada
22 Department of Corrections, Smith, and Dzurenda on February 13, 2024. (ECF
23 Nos. 18; 23; 28.) This calls into question whether removal without these
24 Defendants was proper under § 1446(a)(2)(A).


25 As the removing defendant bears the burden of establishing that removal
26 is proper, the Court orders Carson City Defendants to show cause why removal
27 in this action without the joinder or consent of all other Defendants in the state
28 court action was proper.

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It is therefore ordered that the Carson City Defendants must file a response to this order to show cause by December 2, 2024.

It is further ordered that Plaintiff may file a response by December 12, 2024.

Dated this 22nd day of November, 2024.



ANNE R. TRAUM
UNITED STATES DISTRICT JUDGE