

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

New Hampshire Department of
Health and Human Services,
Division for Children,
Youth and Families, and
Brian Murphy, Child
Protective Service Worker,
Plaintiffs

v.

Civil No. 06-cv-148-SM

Elena Katz and
Arnold Grodman,
Defendants

ORDER

On April 11, 2006, the State of New Hampshire filed a petition for abuse or neglect with regard to Eleonora Grodman, a minor child. In the Matter of Eleonora Grodman, Case No. 2006 J119, New Hampshire Superior Court, Brentwood Family Division. The proceeding is civil in nature, and is designed to protect children, not punish parents. Parents who allegedly abuse or neglect their children are brought before the court not as criminal defendants but as parties to a civil action.

Eleonora's parents, Elena Katz and Arnold Grodman, are said to have abused or neglected Eleanora, and appear to have been duly served with the petition and a summons, but, in any event,

have actual notice of the proceeding. Indeed, they have filed a notice of removal, seeking to bring the proceeding before this court.

Having reviewed the papers filed, it is apparent that no basis exists upon which this court could possibly exercise federal jurisdiction over this matter. The asserted basis for removal jurisdiction - federal question - is facially without merit. The abuse or neglect proceeding relates exclusively to state law concerns and involves no issue of federal law. A defendant may not remove a case to federal court unless the complaint in state court establishes that the case "arises under" federal law, or other jurisdictional factors, not relevant here (e.g., diversity of citizenship, federal preemption, etc.), warrant the exercise of jurisdiction. See Franchise Tax Bd. v. Construction Laborers Vacation Trust, 463 U.S. 1, 10 (1983). It is not enough that a federal claim might be asserted as a defense or counterclaim in the state proceeding.

Conclusion

This case is remanded to the New Hampshire Superior Court, as there is no legitimate basis for removal. Defendants'

petition to proceed *in forma pauperis* with respect to the removal
petition is granted.

SO ORDERED.



Steven J. McAuliffe
Chief Judge

April 28, 2006

cc: Elena Katz, *pro se*
Arnold Grodman, *pro se*