

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

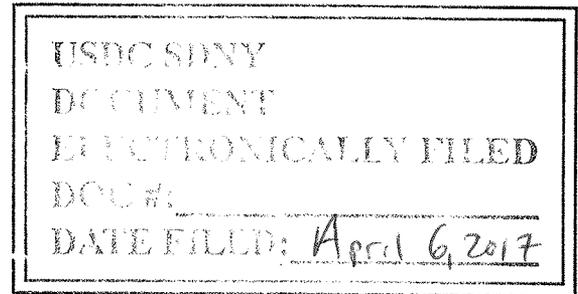
Maverick Scott,

Plaintiff,

—v—

New York City Administration for Children's  
Services,

Defendant.



17-cv-93 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On January 5, 2017, the pro se Plaintiff in this case filed a notice of removal of an unspecified proceeding against the New York City Administration for Children's Services. *See* Dkt. No. 1 ("Notice of Removal"). The Court hereby DISMISSES this case without prejudice, on the grounds that removal is improper.<sup>1</sup>

Dismissal is appropriate for several reasons. First, the Plaintiff does not specify in his notice of removal the underlying action that he intends to remove from state court, nor attach to his Notice any pleadings or orders from that underlying action. *See generally* Notice of Removal. The Notice of Removal thus does not comply with 28 U.S.C. § 1446(a) and is improper. *Id.* (noting that, when a *defendant* removes a case to federal court, she must "file[] in the district court of the United States for the district and division which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and

<sup>1</sup> The Court would ordinarily remand, rather than dismiss, a case removed to federal court. In this case, however, the Plaintiff has not specified what underlying case he is attempting to remove, and the Court thus cannot determine to which court this case would be remanded. Dismissal is therefore appropriate.

containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action”).

Second, and more fundamentally, the Plaintiff cannot remove his own case from state court, and Plaintiff provides no indication in his Notice of Removal that he is removing a case in which he is a defendant. *See* 28 U.S.C.A. § 1441(a) (“Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed *by the defendant or the defendants*, to the district court of the United States for the district and division embracing the place where such action is pending.” (emphasis added)); *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100 (1941) (finding that this language does not provide plaintiffs the right to remove where a counterclaim adds a federal claim).

Finally, to the degree that Plaintiff is attempting to remove to federal court a pending state child-welfare proceeding in New York State Family Court (which this Court cannot determine, in light of Plaintiff’s failure to comply with § 1446(a)), a previous tribunal has already held that there is no federal jurisdiction over such action. Plaintiff previously attempted to remove a case from New York State Family court to the District of New Jersey. *See Scott v. New York City Administration for Children’s Servs.*, No. 15-cv-7731 (MCA) (Dist. N.J. Oct. 27, 2015) (Dkt. Nos. 1, 9, 17). The district court *sua sponte* remanded the case to New York State Family Court on the ground that venue was improper in the district of removal. *See Scott v. New York City Administration for Children’s Servs.*, No. 15-cv-7731 (MCA) (Dist. N.J. Oct. 18, 2016) (Dkt. No. 18). On appeal, the Third Circuit affirmed on other grounds. *See Scott v. N.Y. Admin. for Children’s Servs.*, No. 16-3911, 2017 WL 775825, at \*1 (3d Cir. Feb. 28, 2017). The Third Circuit held that the district court lacked “subject matter jurisdiction over the removed

proceedings,” and thus was “obligated to remand, sua sponte, on that basis.” *Id.* That is because “[t]he case Scott sought to remove to federal court—a petition filed by a state child-welfare organization to initiate child-protective proceedings in state court, *see In re: C.M.*, Docket No. NN-42673-11; File #37961 (N.Y. Fam. Ct.)—plainly arises under state not federal law, *cf.* 28 U.S.C. § 1331, and there is no amount of money ‘in controversy,’ 28 U.S.C. § 1332(a).” *Id.*

Although the Court thus must dismiss this case, it notes that a review of Plaintiff’s purported Notice of Removal suggests Plaintiff may be intending to bring a separate lawsuit against the New York City Administration for Children’s Services for deprivation of constitutional rights, rather than attempting to remove a pending case. *See* Notice of Removal at 1-2 (“The Plaintiff requests the Notice of Removal to redress the deprivation of rights secured by the First, Ninth and Fourteenth Amendments to the United States Constitution. The Defendant . . . has deprived, under color of state law, the Plaintiff and his son of their substantive due process rights under the Due Process Clause of the Fourteenth (sic) to the United States Constitution.”); *id.* at 7 (seeking, as relief, an award of damages). To the degree that Plaintiff intends to bring a separate suit in federal court, he may not file a notice of removal, but must file a complaint consistent with the Federal Rules of Civil Procedure.

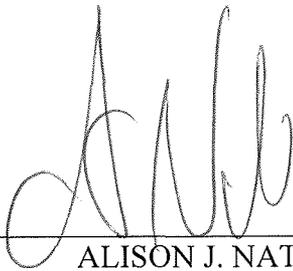
On September 19, 2016, a new legal clinic opened in this District to assist people who are parties in civil cases and do not have lawyers. The Clinic is run by a private organization called the New York Legal Assistance Group; it is not part of, or run by, the Court (and, among other things, therefore cannot accept filings on behalf of the Court, which must still be made by any unrepresented party through the Pro Se Intake Unit). The Clinic is located in the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York, in Room LL22, which is just inside the Pearl Street entrance to that Courthouse. The Clinic is open on weekdays

from 10 a.m. to 4 p.m., except on days when the Court is closed. An unrepresented party can make an appointment in person or by calling 212-659-6190.

In sum, the Court DISMISSES this case without prejudice. The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: April 6, 2017  
New York, New York



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ALISON J. NATHAN  
United States District Judge