

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

**SHAYLA DUKE,
DAVID DUKE,**

Plaintiffs,

v.

OREGON DEPARTMENT OF JUSTICE,

Defendant.



Civ. No. 6:16-cv-01038-TC

OPINION AND ORDER

MCSHANE, Judge:

Petitioners Shayla Duke and David Duke (Dukes) moved the court to allow the removal of a state case number 16JU00034 from the Lane County Circuit Court (LCCC), or in the alternative, to allow them to file a “fully-pled” complaint. ECF No. 7. Petitioners also move for an emergency temporary stay of LCCC cases 16JU00034 and 16JU04941. ECF No. 17, 24. Respondent opposes petitioners’ motion for temporary stay of the juvenile court proceedings (ECF No. 29) and moves to remand case number 16JU00034 back to the LCCC. ECF No. 26.

Magistrate Judge Thomas M. Coffin issued a Findings and Recommendation (F&R) on July 19, 2016, in which he recommended that this Court deny petitioners’ motions for an emergency stay of LCCC cases 16JU00034 and 16JU04941 (ECF No. 17, 24), deny petitioners’ motion to allow removal of LCCC case number 16 JU00034, (ECF No. 7), grant respondent’s motion to remand case number 16JU00034 back to the LCCC, (ECF No. 26), and finally, deny respondent’s motion for attorney fees and costs (ECF No.26). The matter is now before this Court. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

This Court reviews all portions of the F&R subject to objection de novo. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Bus. Machs. Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Plaintiff timely filed an objection. Upon review, this Court finds no error in Judge Coffin's F&R, ECF No. 37.

As indicated in the F&R, the state court proceedings are ongoing and important state interests are implicated. Petitioners have a sufficient state forum in which to pursue their claims, including their federal claims brought pursuant to § 1983. As for any claims sought arising from state law, common law, and tort-type claims, this court lacks jurisdiction to hear those claims because complete diversity among all parties is not present.

CONCLUSION

This Court ADOPTS Judge Coffin's F&R, ECF No. 37, in full. Accordingly, petitioner's motions for an emergency stay of LCCC cases 16JU00034 and 16JU04941 (ECF No. 17, 24) is DENIED and petitioner's motion to allow removal of LCCC case 16JU00034 (ECF No. 7) is DENIED. Respondent's motion to remand case number 16JU00034 back to the LCCC (ECF No. 26) is GRANTED and respondent's motion for attorney's fees and costs (ECF No. 26) is DENIED.

IT IS SO ORDERED.

DATED this 17th day of October, 2015.



Michael J. McShane
United States District Judge