

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

STATE OF KANSAS,

Plaintiff,

v.

CASE NO. 22-3098-SAC

ALEC S. SOMRAK,

Defendant.

MEMORANDUM AND ORDER

This matter is before the court on a notice of removal filed by the defendant concerning six criminal actions in Saline County, Kansas. The notice identifies the cases as: 22CR314, 22CR293, 22CR294, 20CR591, 20CR934, and 19CR810<sup>1</sup>.

Under 28 U.S.C. § 1443, a state criminal defendant may remove a state criminal case to a federal district court if the defendant "is denied or cannot enforce ... a right under any law providing for the equal civil rights of citizens of the United States". 28 U.S.C. 1443(1). A criminal defendant qualifies for removal under that provision by meeting a two-pronged test: "First, the petitioner must show that the right upon which the petitioner relies arises under a federal law 'providing for specific civil rights stated in terms of racial equality.' Second, the petitioner must show that he has been denied or cannot enforce that right in the state courts." *Alabama v. Conley*, 245 F.3d 1292, 1295 (11<sup>th</sup> Cir. 2001) (quoting *Georgia v. Rachel*, 384 U.S. 780, 792 (1966)). In addition, the removal of state-court

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<sup>1</sup> The court's research identifies two of these cases as pending: 22CR314 and 22CR294. The court found no record associated with defendant for 22CR293. Three of the cases listed were closed based upon defendant's pleas: 20CR591 (guilty plea); 20CR 934 (no lo contendere plea); and 19CR810 (guilty plea).

civil or criminal actions to federal court is permissible where the action is against a federal officer, see 28 U.S.C. § 1442, or a member of the armed forces, see 28 U.S.C. § 1442a.

The present notice of removal does not meet these tests, as the defendant makes only vague allegations concerning his cases and does not allege that he is either a federal officer or a member of the armed forces. Likewise, as noted, one of the actions cited does not involve the defendant, and three others are closed cases. There is no ground for removal, and, having considered the materials submitted in this matter, the court finds the summary remand of the actions is warranted.

IT IS, THEREFORE, BY THE COURT ORDERED that Case Nos. 22CR314, 22CR293, 22CR294, 20CR591, 20CR934, and 19CR810 are remanded to the state court.

IT IS FURTHER ORDERED defendant's motion to proceed in forma pauperis (Doc. 2) is granted.

**IT IS SO ORDERED.**

DATED: This 24th day of May, 2022, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge