

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STATE OF KANSAS,

Respondent,

v.

CRAIG GILBERT,

Petitioner.

Case No. 22-3202-JWL-JPO

MEMORANDUM AND ORDER

This matter is before the court on a notice of removal filed by the petitioner in a matter decided by the Kansas Supreme Court. The action, Case No. 125,140-S, *Gilbert v. State of Kansas*, is an original action in mandamus. The Kansas Supreme Court dismissed the matter on September 2, 2022.

Under 28 U.S.C. § 1441(a), “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.” 28 U.S.C. § 1441(a).

Federal courts are courts of limited jurisdiction, as “[t]hey possess only that power authorized by Constitution and statute ... which is not to be expanded by judicial decree.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citations omitted). Federal district courts have “federal question jurisdiction” over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. “[A] cause of action arises under federal law only when the plaintiff’s well-pleaded complaint raises issues of federal law.” *Metro. Life Ins. Co. v. Taylor*, 481 U.S. 58, 63 (1987).

Likewise, federal district courts have “diversity jurisdiction” when the amount in controversy exceeds \$75,000.00 and there is complete diversity among the parties, which means that no plaintiff may be a citizen of the same state as any defendant. 28 U.S.C. § 1332(a).

Petitioner’s notice of removal does not appear to invoke either basis for original jurisdiction in this court, nor has the court located any support for allowing the removal of a closed action. The court finds the summary remand of the action to the state court is warranted.

IT IS, THEREFORE, BY THE COURT ORDERED that Case No. 125,140-S is remanded to the Supreme Court of Kansas.

IT IS SO ORDERED.

Dated: September 14, 2022

/s/ John W. Lungstrum
JOHN W. LUNGSTRUM
UNITED STATES DISTRICT JUDGE