

**United States Court of Appeals
For the First Circuit**

No. 18-1298

CITY OF BOSTON INSPECTIONAL SERVICES
DEPARTMENT,
Plaintiff, Appellee,

v.

JAMES DICKEY,
Defendant, Appellant,
EAST FOURTH STREET, LLC,
Defendant

Before

Torruella, Lynch, and Thompson,
Circuit Judges.

JUDGMENT

Entered: November 7, 2018

Pro se appellant James Dickey appeals from the judgment of the district court remanding a case filed against him in the Massachusetts Housing Court. The City of Boston Inspectional Services Division (ISD) has moved for summary disposition. After our own careful review of the record and the submissions of the parties, including appellant's merits brief, we agree with the district court's conclusion that appellant failed to show that removal was authorized under the Civil Rights Removal Act, 28 U.S.C. §1443 and 42 U.S.C. §3617. See *Georgia v. Rachel*, 384 U.S. 780, 788 (1966); *City of Greenwood v. Peacock*, 384 U.S. 808, 825 (1966). ISD's motion for summary disposition is granted, and the judgment of the district court is affirmed.

By the Court:

Maria R. Hamilton, Clerk

United States District Court
District of Massachusetts

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Case Name: City of Boston Inspectional Services
Department v. Dickey et al.

Case Number: 1:18-cv-10143-RGS

Filer:

Document Number: 19 (No document attached)

Docket Text:

Judge Richard G. Stearns: ELECTRONIC ORDER
entered granting 9 Motion to Remand to State
Court.

Federal courts may exercise jurisdiction only when expressly authorized to do so by the United States Constitution or federal statute. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Without factual or legal foundation, defendants removed this case under the civil rights removal statute, 28 U.S.C. § 1443, failing to assert any underlying facts or specific law "stated in terms of racial equality" that would permit the removal. In addition, there are no allegations to satisfy the second prong of the statute -- that defendants are unable to enforce their rights in

state court. *See Imasuen v. Winn Prop. Mgmt.*, 2013 WL 6859094, at *2 (D. Mass. Dec. 26, 2013); *Carlsen v. Carlsen*, 2011 WL 4443428, at *6 (D. Mass. Sept. 22, 2011).

More disturbing is defendant James Dickey's complete disregard of prior court orders -- Judges Young and Sorokin carefully explained why similar claims are outside the jurisdiction of this court, *see City of Boston Inspectional Servs. Dep't v. East Fourth St., LLC & another*, No. 1:17-cv-10791-WGY, and *Dickey v. Inspectional Servs. Dep't of the City of Boston*, No. 1:17-cv-10754-WGY; Magistrate Judge Boal's Order that Dickey may not represent *pro se* East Fourth Street LLC, *see* Dkt #11; and Judge Sorokin's Order that Dickey notify this court in future filings of his prior frivolous and vexatious litigation in his session. *See Dickey v. City of Boston*, 2016 WL 7365167, at *3 n.6 (D. Mass. Dec. 19, 2016) (Judge Sorokin ordered Dickey that in any future complaint filed in the District of Massachusetts, he shall state the following: "Previously, one session of this Court warned Plaintiff against filing frivolous or vexatious suits.") He did not do so in his Complaint filed before Judge Young.

Accordingly, this court warns Dickey that any further frivolous filings in the United States District Court for the District of Massachusetts -- whether removals or Complaints -- will result in

an injunction barring him from filing without prior permission of the court. *See United States v. Gomez-Rosario*, 418 F.3d 90, 101 (1st Cir. 2005) ("Federal courts 'possess discretionary powers to regulate the conduct of abusive litigants'" (quoting *Cok v. Family Court of Rhode Island*, 985 F.2d 32, 34 (1st Cir. 1993)); *Castro v. United States*, 775 F.2d 399, 408 (1st Cir. 1985) (per curiam) ("[I]n extreme circumstances involving groundless encroachment upon the limited time and resources of the court and other parties, an injunction barring a party from filing and processing frivolous and vexatious lawsuits may be appropriate.").

The Clerk will remand this case to the Boston Housing Court.

(Zierk, Marsha) (Entered: 03/27/2018)