

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 18-cv-02799-GPG
(Removal from Costilla County, Colorado, Combined Court, Case No. C122018T212)

PEOPLE OF THE STATE OF COLORADO,

Plaintiff,

v.

DONNA SELLER,

Defendant.

ORDER FOR SUMMARY REMAND

Defendant Donna Sneller has filed *pro se* a "Notice of Removal," ECF No. 1, removing to this Court case number C122018T212 from the Costilla County Combined Court. The Court must construe the notice of removal liberally because Ms. Sneller is not represented by an attorney. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, the case will be remanded summarily to the state court.

It appears that Ms. Sneller is attempting to remove a state criminal case to this Court. Title 28 U.S.C. § 1455(a) provides that a defendant seeking to remove a criminal prosecution from a state court must file a notice of removal "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 . . . in such action." Similarly, even if the relevant state court case is a civil case, the notice of removal must contain "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.” 28 U.S.C. § 1446(a).

Ms. Sneller fails to provide a short and plain statement of the grounds for removal of this action and she has not provided copies of all process, pleadings, and orders served upon him. Furthermore, even construing the notice of removal liberally, the Court is unable to ascertain any legitimate basis for removal of this case under the relevant statutes. Therefore, because it clearly appears on the face of the notice of removal that removal of this action should not be permitted, the action will be remanded summarily to the state court. See 28 U.S.C. § 1455(b)(4) & 28 U.S.C. § 1447(c). Accordingly, it is

ORDERED that Case No. C122018T212 is remanded summarily to the Costilla County Combined Court. It is

FURTHER ORDERED that the Clerk of this Court shall mail a certified copy of this order to the Clerk of the Costilla Combined County Court, 304 Main Street, P.O. Box 301, San Luis, CO 81152.

DATED at Denver, Colorado, this 2nd day of November, 2018.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

November 15, 2018

Elisabeth A. Shumaker
Clerk of Court

PEOPLE OF THE STATE OF
COLORADO,

Plaintiff - Appellee,

v.

DONNA SNELLER,

Defendant - Appellant.

No. 18-1440
(D.C. No. 1:18-CV-02799-LTB)
(D. Colo.)

ORDER

This matter is before the court *sua sponte* following the opening of this appeal. A review of the district court docket has revealed a potential defect in this court's appellate jurisdiction. As a result, the court is considering this matter for summary disposition. 10th Cir. R. 27.3(B).

On October 31, 2018, Donna Sneller removed her state criminal case to federal court. On November 2, 2018, the federal district court summarily remanded the case back to state court. Ms. Sneller seeks to appeal that order. However, an order remanding a case to state court for lack of subject matter jurisdiction or due to a defect in the removal procedure is not an appealable order. *See* 28 U.S.C. § 1447(d) ("An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise"); *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 127 (1995) (construing § 1447(d)'s bar on appellate review to apply to remands based on lack of

subject matter jurisdiction and defects in the removal procedure). It appears the district court remanded due to a lack of subject matter jurisdiction; thus, it appears the order is not appealable.

Within 14 days from the date of this order, Ms. Sneller shall file a written response setting forth any legal basis for this court to exercise jurisdiction over this appeal. Failure to timely respond to this order may result in the dismissal of this appeal without further notice pursuant to 10th Cir. R. 42.1.

Briefing as to the merits of this appeal is suspended pending further order of the court. 10th Cir. R. 27.3(C).

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Counsel to the Clerk

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

Criminal Action No. 18-cv-02799-LTB
(Removal from Costilla County, Colorado, Combined Court, Case No. C122018T212)

PEOPLE OF THE STATE OF COLORADO,

Plaintiff,

v.

DONNA SNELLER,

Defendant.

MINUTE ORDER

ORDER ENTERED BY SENIOR JUDGE LEWIS T. BABCOCK

The Court will not consider the "Notice of Trespass," ECF No. 4, filed on November 5, 2018, which includes a motion to dismiss, *see id.* at 3. The motion to dismiss is denied because the action was summarily remanded to the Costilla County Combined Court on November 2, 2018.

Dated: November 6, 2018
