

18-10537

SECT. S MAG. 3

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ERROR VICTOR, SR., L.S. et al

APPEAL NO. 2016-KO-1516

VERSUS

STATE OF LOUISIANA

FEDERAL CIVIL NO. _____

FILED: _____

DPY. CLERK: _____

PETITION AND NOTICE OF REMOVAL
PURSUANT TO 28 USC 1443(1), 1446

NOW INTO COURT, through undersigned counsel, comes Errol Victor, Sr. L.S., hereinafter referred to as Petitioner, who pursuant to 28 USC 1443 (1), and 1441-1446, give Notice of Removal of the above identified action which appears as Supreme Court Appeal Docket No: 2016-KO-1516, State of Louisiana to the United States District Court, Eastern District of Louisiana.

ALLEGATIONS TO SUPPORT CRIMINAL
REMOVAL 28 U.S.C. 1443(1) & 1441-1446

Petitioner alleges that the State of Louisiana colluded and conspired to deprive Petitioner and petitioner's who are of African American heritage (the descendants of former slaves) constitutional due process of law and specific civil rights stated in terms of racial equality, and right denied which Petitioner/Petitioners cannot enforce in the Courts of Louisiana that are Federally specified. The State of Louisiana has demonstrated and continues to demonstrate a complete disregard for the Statutory and

Constitutional rights of African Americans within its jurisdiction and in particular in Petitioner's case.

Respondent has demonstrated that in pursuit of African Americans (males in particular), that the State of Louisiana will close the legal due process of law requirement of both Louisiana and the United States Constitutions.

Petitioner, the Rev. Errol Victor, Sr. L.S. was indicted in a 3rd superseding indictment. Petitioner is African American. The instant superseding indictment was obtained following the district court's termination of a second superseding indictment obtained in violation of Louisianan and the United States Constitutions.

Louisiana filed the instant indictment consistent with a process employed obtaining indictments and/or bill of information against African Americans in violation of mandate for empaneling, appointing, or otherwise consisting a grand jury under the law. A careful examination of the race practice reveals that African American Citizens are indicted and/or charged by bill of information a disproportionate greater % of time, as opposed to caucasian Americans arrested for the same or similar offenses that are more likely to be prosecuted and convicted in a court of law in the State of Louisiana.

2.

Petitioner avers and show that the State of Louisiana in pursuit of African Americans rarely (if at all) apply to force and assets of their office to pursue Anglo Americans/White Americans with the same vigor that the State of Louisiana pursues

African American defendants. In this case, Rev. Errol Victor Sr., and wife Tonya O. Victor, both African American parents, have been indicted three (3) times for the same offense where two (2) previous indictments were dismissed. Both Rev. Victor and his wife was forced to represent themselves, [pro-se] at a capital trial, facing life without the parole, with no legal experience. Incredibly, Petitioner still managed to achieve a 10-2 jury verdict. A non-unanimous jury verdict, a conviction in Louisiana.

3.

Petitioner avers that the non-unanimous jury scheme in Louisiana codified at Article 1, Section 17 of the Louisiana Constitution of 1974 and Article 782 of the Louisiana Code of Criminal Procedure violates specific civil rights of Petitioner/Petitioners and specified Federal rights, namely the Fourteenth Amendment's Equal Protection Clause.

Petitioner may produce on the hearing on the merits, evidence to support his contentions that, African Americans are treated differently due to their race in the State of Louisiana dating back to decades where these tactics are contrary to the laws of the United States and of which embraces Jim Crow and other racial practices. Such tactic are meted out to African Americans Defendants as a matter of course in State of Louisiana. This Honorable Federal District Court for the Eastern District of Louisiana should exercise authority pursuant to 28 U.S.C. 1443(1), assume jurisdiction in this matter and protect petitioner/petitioners as a class of citizens (African Americans) from

intentional, careless, and reckless non-conformity with jurisprudence and laws, civil rights, and constitution of the United States. Petitioner reserves the right to enroll attorney in this matter.

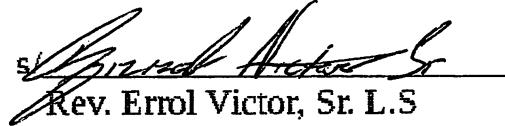
4.

The State of Louisiana consistently use the law arbitrarily and selectively with African American defendants. Petitioner alleges that Louisiana long history of racism, discrimination and partial treatment of African Americans in its court system requires a minimum inquiry as to whether this case involving a 10-2 jury verdict, several civil rights violations, continual tort actions, crimes in official capacity, misprision of felony by officers of the court and employees of the State in violation of oath of office, malfeasance, theft of public funds, as to whether this case (among others) should not remain but be removed from Louisiana's discriminatory legal system.

WHEREFORE, Petitioner pray that this Honorable Federal District Court, that after due proceedings had in this matter, that the State of Louisiana State criminal case cited supra (above), be finalized and adjudicated within the jurisdiction and authority of this Honorable Court.

Petitioner pray for relief as the Laws and Constitution of the United States requires given the facts alleged herein and requires Louisiana to answer and show cause why this matter should not be moved and remain within this Honorable Federal Court jurisdiction.

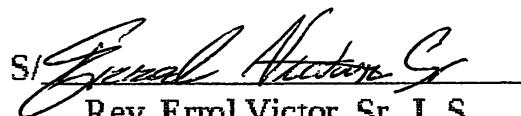
Respectfully Submitted,


Rev. Errol Victor, Sr. L.S.

Propria Persona

CERTIFICATE OF SERVICE

I, We, Certify that on this 5th day of November, 201(8), a copy of the foregoing was filed with the Honorable Clerk of Court, Louisiana Supreme Court, New Orleans, by physically filing same with the Honorable Clerk of this Court. Further, a copy of this removal action was placed in the copy with the U.S. Mail, postage prepaid in advance of mailing, to the Honorable Clerk of Court, Supreme Court of Louisiana, 400 Royal Street, New Orleans 70130. (504) _____ fax phone.


Rev. Errol Victor, Sr., L.S.
Pro Se Petitioner

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

STATE OF LOUISIANA

CIVIL ACTION

VERSUS

NO. 18-10537

ERROL VICTOR

SECTION: "G"(3)

ORDER

Before the Court is a petition and notice of removal filed by Petitioner Errol Victor, Sr. (“Petitioner”).¹ Pursuant to 28 U.S.C. § 1443, Petitioner seeks to remove his appeal of a state criminal conviction to this federal court.² Having examined the petition, the notice of removal, the record, and the applicable law, the Court finds that it does not have jurisdiction over the matter. Accordingly, the Court will remand the case to the Louisiana Supreme Court.

28 U.S.C. § 1443 allows removal of certain civil actions and criminal prosecutions from a state court by a defendant “who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof.”³ Caselaw instructs that the defendant must “allege that a specific federal law protects the criminal conduct with which he was charged.”⁴ To remove a case under 28 U.S.C. § 1443, the defendant must satisfy a two-prong test.⁵ First, the right allegedly denied must “arise[] under a federal law providing for specific civil rights stated in terms of racial equality.”⁶ Second,

¹ Rec. Doc. 1.

² *Id.*

³ 28 U.S.C. § 1443.

⁴ *Robertson v. Louisiana*, 246 F. App'x 267, 268 (5th Cir. 2007) (citing *City of Greenwood, Miss. v. Peacock*, 384 U.S. 808, 824–28 (1966)).

⁵ *Williams v. Mississippi*, 608 F.2d 1021, 1022 (5th Cir. 1979).

⁶ *Id.* (quoting *Johnson v. Mississippi*, 421 U.S. 213, 219 (1975)).

R. Appx. "B"

“it must appear, in accordance with the provisions of § 1443(1), that the removal petitioner is denied or cannot enforce the specific federal rights in the courts of [the] state.”⁷ “This provision normally requires that the ‘denial be manifest in a formal expression of state law,’ . . . such as a state legislative or constitutional provision, “‘rather than a denial first made manifest at the trial of the case.’”⁸ Failure to satisfy this additional requirement is fatal.⁹

In the instant case, Petitioner asserts that the State of Louisiana violated his civil rights by: (1) discriminating in indictments such that prosecutors disproportionately indicted African Americans, (2) discriminating in prosecutions in a manner that targeted African Americans more than other races, and (3) obtaining one of Petitioner’s convictions with a non-unanimous jury.¹⁰ Petitioner lists the Due Process Clause of the Louisiana and United States Constitutions and the Equal Protection Clause of the Fourteenth Amendment as the laws that protect his civil rights.¹¹ The only state laws that Petitioner explicitly challenges are Article 1, Section 17 of the Louisiana Constitution and Article 782 of the Louisiana Code of Criminal Procedure, both of which address Louisiana’s non-unanimous jury scheme.¹²

The Court first notes that Petitioner does not allege that a federal civil rights law protects the conduct with which he was charged in state court.¹³ This seemingly ends the Court’s inquiry into whether § 1443 permits removal of the action, but the Court will nevertheless address the assertions Petitioner makes in the Notice of Removal. Rather than allege that a federal law protects

⁷ *Id.* (quoting *Johnson*, 421 U.S. at 219).

⁸ *Id.* (quoting *Johnson*, 421 U.S. at 219).

⁹ *Id.*

¹⁰ Rec. Doc. 1 at 2–4.

¹¹ *Id.*

¹² *Id.* at 3.

¹³ See *City of Greenwood, Miss.*, 384 U.S. at 824–28 (1966).

the activity charged in state court, Petitioner's claims center on practices that state prosecutors allegedly engaged in during his prosecution—denials of his rights that were “first made manifest at the trial of the case.”¹⁴ The United States Supreme Court has made clear that “[i]t is not enough to support removal under s 1443(1) to allege or show that the defendant's federal equal civil rights have been illegally and corruptly denied by state administrative officials in advance of trial, that the charges against the defendant are false, or that the defendant is unable to obtain a fair trial in a particular state court.”¹⁵ There are other federal provisions that are meant to protect these civil rights of defendants, and Petitioner attempts to apply § 1443 in a context where other civil rights provisions are more appropriate.¹⁶

§ 1443 is only intended to apply “where it can be clearly predicted” that because of a pervasive state law, the very act of bringing a defendant to trial in a state court will controveirt a federal right that protects him.¹⁷ The most notable example of a case where § 1443 was properly utilized was one in which civil rights advocates were prosecuted for eating at a segregated lunch counter.¹⁸ The Supreme Court found that because the Civil Rights Act of 1964 explicitly protected the right to engage in this activity, the state could not prosecute individuals under state laws designating this activity as trespass.¹⁹ Thus, it could be “clearly predicted” that any attempt at a state trespass charge would violate the defendants' civil rights.²⁰

¹⁴ See *Williams*, 608 F.2d at 1022.

¹⁵ *City of Greenwood, Miss. v. Peacock*, 384 U.S. 808, 827 (1966).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *State of Georgia v. Rachel*, 384 U.S. 780 (1966).

¹⁹ *Id.*

²⁰ *City of Greenwood, Miss.*, 384 U.S. at 828 (“Under s 1443(1), the vindication of the defendant's federal rights is left to the state courts except in the rare situations where it can be clearly predicted by reason of the operation of a pervasive and explicit state or federal law that those rights will inevitably be denied by

Here, Petitioner fails to articulate how it could have been “clearly predicted” that a state law would result in a prosecution that violated his federal rights. First, the Supreme Court has held that broad constitutional guarantees, such as the Due Process Clause, that do not specifically address “equal civil rights” do not qualify as one of the federal laws included in § 1443.²¹ Further, Petitioner does not detail how his right to Equal Protection under the law could not be enforced in Louisiana courts. Finally, the only state laws that Petitioner cites as violating his rights are the Louisiana constitutional provisions regarding non-unanimous juries. Yet, there is no federal right to a verdict by a unanimous jury, and the United States Supreme Court has specifically held that the Louisiana non-unanimous jury provision does not violate a defendant’s right to a jury trial.²²

Because Petitioner fails to articulate a state law that caused his federal rights to be violated when he was tried in state court, it is clear that § 1443 does not apply to Petitioner’s case. Where Petitioner has not provided a legitimate statutory basis for removal, this Court cannot exercise jurisdiction over his state criminal action.

Accordingly,

IT IS HEREBY ORDERED that this state criminal action is **REMANDED** to the Louisiana Supreme Court.

NEW ORLEANS, LOUISIANA, this 29th day of April, 2019.


NANNETTE JOLIVETTE BROWN
CHIEF JUDGE
UNITED STATES DISTRICT COURT

the very act of bringing the defendant to trial in the state court.”) (citing *State of Georgia v. Rachel*, 384 U.S. 780 (1966)).

²¹ *Id.* at 825.

²² *Apodaca v. Oregon*, 406 U.S. 404 (1972).

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No.2019-OK-00711

VS.

ERROL VICTOR

IN RE: Errol Victor, Jr. - Applicant Defendant; Parish of St. John the Baptist, 40th Judicial District Court, Docket Number 10,172(1); On Remand from United States District Court, Eastern District of Louisiana, Docket Number 18-10537;

October 15, 2019

Writ application denied.

BJJ

JLW

JDH

SJC

JTG

Chehardy, J., recused.

Supreme Court of Louisiana
October 15, 2019

Katia Marjanovic
Clerk of Court
Chief Deputy For the Court

R. Appx. "C"

PRIV2 MAIL

// MP
DATE 08-16-2018 NAME VICTOR ERROL SR.
FROM SUPREME COURT 400 ROYAL ST NO LA
70130

// MP
DATE 08-17-2018 NAME VICTOR ERROL SR.
FROM E. JEFFERY PERILLOUX 40TH JDC DIV
B PO BOX 357 EDGARD LA 70049

// MP
DATE 08-17-2018 NAME VICTOR ERROL SR.
FROM ELIANA DEFRANCESCH ST JOHN CLERK
PO BOX 280 EDGARD LA 70049

// MP
DATE 08-20-2018 NAME VICTOR ERROL SR.
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UNI LAW CENTER PO BOX 9294 BR LA
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DATE 08-27-2018 NAME VICTOR ERROL SR.
FROM ANGELA ALLEN-BELL ASSO PROF OF
LEGAL SOUTHERN UNI LAW CENTER PO
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// MP
DATE 09-19-2018 NAME VICTOR ERROL SR.
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70813

// D
DATE 10-03-2018 NAME VICTOR ERROL SR.
FROM COURT OF APPEAL 1ST CIR PO BOX
4408 BR LA 70821

// D
DATE 10-15-2018 NAME VICTOR ERROL SR.
FROM JUDGE EDWARD GAIDRY PRO TEMPORE
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LA 70049

// D
DATE 10-24-2018 NAME VICTOR ERROL SR.
FROM SUPREME COURT 400 ROYAL ST NO LA
70130

// D
DATE 10-25-2018 NAME VICTOR ERROL SR.
FROM ASSO PROF OF LEGAL SOUTHERN UNI
LAW CENTER PO BOX 9294 BR LA 70813

EXHIBIT "C-2"

R. Appx. "D"