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US SUP CT APPLICATION APEND A

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 22-2225**

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BOARD OF SUPERVISORS OF ALLEGHANY COUNTY,

Plaintiff - Appellee,

v.

DONNIE T.A.M. KERN,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at  
Roanoke. James P. Jones, Senior District Judge. (7:22-cv-00424-JPJ-PMS)

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Submitted: March 16, 2023

Decided: March 20, 2023

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Before WILKINSON, AGEE, and HARRIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Donnie T. Kern, Appellant Pro Se. Christopher Stanislaw Dadak, GUYNN WADDELL  
CARROLL & LOCKABY, P.C., Salem, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## US SUP CT APPLICATION APEND A

## PER CURIAM:

Donnie T. Kern seeks to appeal the district court's order remanding the underlying civil action against Kern to the state court from which it was removed.

[T]he law as it stands today provides that an order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to [28 U.S.C. §] 1442 or [§] 1443 . . . shall be reviewable by appeal or otherwise.

*BP P.L.C. v. Mayor & City Council of Balt.*, 141 S. Ct. 1532, 1536-37 (2021) (cleaned up).

The district court remanded the case to state court after determining that it lacked subject matter jurisdiction. We therefore are without jurisdiction to review the remand order. *See* 28 U.S.C. § 1447(c), (d).

Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED*

US SUP CT APPLICATION APEND B

FILED: April 25, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 22-2225  
(7:22-cv-00424-JPJ-PMS)

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BOARD OF SUPERVISORS OF ALLEGHANY COUNTY

Plaintiff - Appellee

v.

DONNIE T.A.M. KERN

Defendant - Appellant

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ORDER

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Agee, and Judge Harris.

For the Court

/s/ Patricia S. Connor, Clerk

US SUP CT APPLICATION APEND C

FILED: May 3, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 22-2225  
(7:22-cv-00424-JPJ-PMS)

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BOARD OF SUPERVISORS OF ALLEGHANY COUNTY

Plaintiff - Appellee

v.

DONNIE T.A.M. KERN

Defendant - Appellant

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M A N D A T E

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The judgment of this court, entered 03/20/2023, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk