APPENDIX

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APPENDIX A

United States Court of Appeals
For the Fifth Circuit
No.23-60073

Summary Calendar
United States Court of Appeals Fifth Circuit

FILED November 7, 2023

Lyle W. Cayce, Clerk

County of Yazoo, Mississippi
Plaintiff-Appellee,

Versus

George Dunbar Prewitt, Jr.
Defendant-Appellant

Appeal from the United States District Court for the Southern District of Mississippi
USDC No.3:22-CR-113-1

Before Haynes, Graves, and Higginson, Circuit Judges.

Per Curiam:*

George Dunbar Prewitt, Jr. removed the adjudication of his speeding ticket to federal district court citing, among other statutes, 28 U.S.C. § 1443.

He now appeals the district court's order summarily remanding the case back to the Yazoo County Court, as well as the district court's denial of his motion, pursuant to 28 U.S.C. § 2284, for a three-judge panel. He contends that the Yazoo County Court has no jurisdiction over him, arguing that Mississippi's entire governmental structure, including its court system, is illegitimate because the 1890 Mississippi Constitution violated certain Reconstruction Era statutes because it (1) was not ratified by the majority of the state's citizens and (2) improperly redrew the congressional districts by illegally changing the state's eastern boundaries. Prewitt has also filed motions to stay the remand order and to suspend that motion to stay. Generally, " [a]n order remanding a case to the state court from which it was removed is not reviewable on appeal or otherwise." 28 U.S.C. § 1447(d). However, § 1447(d) makes an exception for orders remanding cases that were removed pursuant to" § 1443. Here, Prewitt's notice of removal expressly relied on s 1443; therefore, we have jurisdiction to review the remand order under the exception provided in § 1447(d). see *BP P.L.C. v. Mayor & City Council of Baltimore,* 141 S. Ct. 1532, 1538 (2021); *Whitaker v. Carney* 778 F.2d 216,219 (5th Cir. 1985).

We review de novo the district court's remand order. *Latiolais v. Huntington Ingalls, Inc.,*957 F.3d 286,290 (5th Cir. 2020) (en banc). A criminal prosecution commenced in a state court may be removed to a federal district court if the prosecution is "[a]gainst any person 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." § 1443(1). To remove a state case under § 1443(1), the defendant must show both that (1) the right allegedly denied arises under a federal law providing for specific rights stated in terms of racial equality and (2) the defendant is denied or cannot enforce the specified federal rights in the state courts due to some formal expression of state law. *Johnson v. Mississippi,* 421 U.S. 273, 279-20 (1975). significantly, the statute applies only to rights that are stated in terms of racial equality and not to generally applicable constitutional rights. see *Georgia v. Rachel,* 384 U.S. 780, 792 (1966). Prewitt appears to assert that the cited Reconstruction Era statutes constitute the federal civil rights laws stated in terms of racial equality, as required under the first prong of Johnson, 421 U.S. at 219. He also appears to contend that the 1890 Mississippi Constitution is the formal expression of state law by which he is being denied, or cannot enforce, his purported federal rights under the Reconstruction Era statutes, as required by the second prong of Johnson, 427 U.S. at 219-20. However, Prewitt has not shown that the Reconstruction Era statutes "provide[] for specific civil rights stated in terms of racial equality. " *Johnson,* 427 U.S. at 223 (internal quotation marks and citation omitted). Moreover, he fails to explain how the provisions in Mississippi's 1890 Constitution deprive him, or prevent the enforcement, of any race-based civil rights purportedly contained in the cited Reconstruction Era statutes. see *id.* at 219-20. Accordingly, Prewitt has not made the required

showing for removal under s 1443(1). Pursuant to § 2284(a), "[a] district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body." Here, the district court determined that there was not an action challenging the constitutionality of the voting districts, given that the germane action in this case was Prewitt's criminal proceeding based on his speeding ticket, not his notice of removal. Because Prewitt has failed to specifically address and allege error in the district court's reasoning on this point, he has abandoned any challenge to the denial of this motion. see *Brinkmann v. Dallas Cnty. Deputy sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). The judgment is AFFIRMED, and the motions are DENIED

APPENDIX B

Case: 23-60073 Document: 68-2 Page: 1 Date Filed: 12/04/2023

United States Court of Appeals
for the Fifth Circuit

No. 23-60073

County of Yazoo, Mississippi,
Plaintiff—Appellee,

versus

George Dunbar Prewitt, Jr.,
Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:22-CR-113-1

ON PETITION FOR REHEARING EN BANC

Before Haynes, Graves, and Higginson, Circuit Judges.

Per Curiam:

Treating the petition for rehearing en banc as a

petition for panel rehearing (5th Cir. R. 35 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (Fed. R. App. P. 35 and 5th Cir. R. 35), the petition for rehearing en banc is DENIED.

APPENDIX C

In the U.S. District Court for the Southern District of Mississippi

County of Yazoo, Mississippi

v.

George Dunbar Prewitt, Jr.

No. Yazoo Cty. Court No. 82CO1:19-cr-03822

Notice of Removal to Federal Court of the above prosecution

Pursuant to 28 U.S.C. §§ 1443, 1455, and 42 U.S.C. § 1983, the above case is removed from the County Court of Yazoo County, Mississippi to the U.S. District Court for the Southern District of Mississippi due to the following reasons;

1. A May 21, 2019 speeding ticket was issued to me, a descendant of American Slaves, with a description as "AT/NEAR" "Five Mile Rd" on U.S. 49W. Five Mile Road crosses U.S. 49W in two different places, both of which are in Humphreys County, Mississippi, but the speeding ticket failed to provide specific notice of which of the two versions of Five Mile Road was applicable and for some reason directed me to appear in the Yazoo County court system. My efforts to have the speeding ticket dismissed for lack of jurisdiction, i.e., venue in

Mississippi, has been rejected on two occasions and at present I am awaiting trial de novo in the County Court of Yazoo County.

2. My claim that the Yazoo court system lacks jurisdiction over the speeding ticket is broader than the venue issue under Mississippi law, and the U.S. Constitution's Sixth Amendment which commands that criminal prosecutions must take place in the state and judicial district of occurrence. Because the 1890 Mississippi Constitution was neither presented, for ratification, to the 190,000 "colored" voters who constituted 73% of the Mississippi voters according to a reference in *Williams v. Mississippi*, 170 U.S. 213 (1898), nor approved by the U.S. Congress as was required by the federal laws found at 14 Stat. 428 (March 2, 1867), 15 Stat. 2 (March 23, 1867), and 16 Stat. 67 (February 23, 1870), following the Civil War, and as was done for the 1868-1869 Mississippi Constitution which was both ratified by the Mississippi electorate and approved by the U.S. Congress, my claim is that the present Mississippi Constitution of 1890, which was cobbled together by 134 men instead of by the entire voting electorate, is invalid and thus deprives any court in Mississippi from acquiring jurisdiction over any matter until compliance with the above federal laws takes place, or Mississippi opts to operate under the 1868-1869 Mississippi Constitution which complied with the above federal laws. Because the above federal laws

were designed to assure that nonwhites had the same rights and privileges enjoyed by whites, a violation of those laws fits within the parameters established by the Reconstruction Congress for removal of certain criminal prosecutions to federal court as authorized by 28 U.S.C. §§ 1443, 1455.

3. To doubly insure that "white supremacy" was irrevocably established in Mississippi, in addition to the refusal to present the 1890 Mississippi Constitution for ratification by the 190,000 "colored" majority and by the U.S. Congress, 133 white supremacists, abetted by one peculiar groveler for whom his part in the disenfranchisement of the "colored" majority continued his lifelong obeisance to white enslavers, moved the eastern boundary of Mississippi from its original site on Mississippi's Pearl River, i.e., the northwest corner of Washington County, Mississippi as described in the 1817 Mississippi Constitution, to the northwest corner of Washington County, **Alabama** in the 1890 Mississippi Constitution, thus creating a new voting majority for Mississippi whites by unlawfully annexing Alabama counties with white voting majorities in violation of the U.S. Constitution's "Article IV, Section 3, Clause 1 which states the following;

> *New States may be admitted by the Congress into this Union;* ***but no new State shall be formed or erected***

> ***within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.***" (emphasis added).

That the Pearl River was the boundary line for Washington County which separated 1817 Mississippi from what became Alabama in 1819 is supported by Section 4 in an 1803 federal law found at 2 Stat. 230 which states the following;

> SEC. 4. And be it further enacted, That for the disposal of the lands of the United States within the Mississippi territory, two land-offices shall be established in the same, one at such place in the county of Adams, as shall be designated by the President of the United States, **for the lands lying west of "Pearl river," sometimes called "half-way river "** and one at such place in the **county of Washington, as shall be designated by the President of the United States, for the lands lying Register and east of Pearl river:....** (emphasis added).

4. A 1990 amendment to the 1890 Mississippi Constitution concealed the 1890 boundary change by removing the boundary section from the 1890 Mississippi Constitution.
5. 42 U.S.C. § 1983 supports the application of the Sixth Amendment requirement that a criminal trial must be held in "the State and district wherein the crime shall have been committed...." The speeding ticket should have directed me to appear in Humphreys County where Five Mile Road crosses U.S. 49W in two places, while Five Mile Road does not intersect U.S. 49W at any point in Yazoo County.
6. The criminal prosecution of a descendant of American Slaves in Yazoo County seems to be a product of bad faith by white officials who lack any hope of gaining jurisdiction over the speeding ticket for the reasons noted above.
7. I attach the following items from the Yazoo court system;

(a). Exhibit 1-The court record abstract.
(b). Exhibit 2-First Motion to Dismiss.
(c). Exhibit 3-Motion for Discovery.
(d). Exhibit 4-Motion for Recusal.
(e). Exhibit 5-Order denying first Motion to Dismiss.
(f). Exhibit 6-Order of Recusal.
(g). Exhibit 7-Order appointing Special Judge.
(h). Exhibit 8-Second Motion to Dismiss.
(i). Exhibit 9-Order denying second Motion to Dismiss.

8. In Exhibit 9, the trial court judge directed the Yazoo County
Circuit Clerk to set a trial date for the underlying case.

_____s/_____

George Dunbar Prewitt, Jr.
537 Dampier Drive
Greenville, MS 38701
dbaa@tecinfo.net
662-335-7440

Certificate of Service

I certify that I have served a copy of the foregoing on the Yazoo County Circuit Clerk's office by email at deputyclerk@yazoocountyms.gov on October 17, 2022.

Certificate of Service

I certify that I have served a copy of the foregoing on the Yazoo County Circuit Clerk's office by email at deputyclerk@yazoocountyms.gov on October 17, 2022.

_____s/_____

George Dunbar Prewitt, Jr.

_____

George Dunbar Prewitt, Jr.

APPENDIX D

In the U.S. Court of Appeals
for the Fifth Circuit

Yazoo County, Mississippi

v.

George Dunbar Prewitt, Jr.

No. 23-60073
USDC No. 3:22-cr-113

Petition for rehearing en banc

Certificate of Interested Persons. The Appellant only.

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Statement of the Issues meriting en banc consideration.

1. Whether the district court and the 5th circuit panel acted in the total absence of subject matter jurisdiction by illegally assuming the subject matter jurisdiction of the requested three-judge court?
2. Whether the notice of removal sufficiently alleged, pursuant to 28 U.S.C. § 1443(1), that I am immune from prosecution by a Mississippi state government whose existence is a nullity due to Mississippi's non-compliance with multiple federal laws expressly providing for racial equality in voting for post-Civil War constitutions in Mississippi?
3. Whether this court has subject matter jurisdiction, rather than a three-judge court under 28 U.S.C. § 2284, over the claim in the notice of removal that the 1890 Mississippi constitution unlawfully moved its eastern boundary to include white majority counties in Alabama?
4. Whether the present-day descendants of American Slaves, of which I am one, have been denied our right, under multiple federal statutes, to vote for the ratification of post-Civil War constitutions in Mississippi in properly apportioned state legislative and congressional election districts, a subject matter

jurisdictional issue that can only be determined by a three-judge court?
5. Whether Section 3 of the 14th Amendment to the U.S. Constitution was violated by the 5th circuit panel's November 7, 2023 decision in this matter, i.e., approval of the 1890 Mississippi constitution and a Mississippi state government that (a) is in open rebellion against multiple federal laws providing for racial equality regardless of "race, color, or previous condition of servitude" and (b) is in open rebellion against federal laws which expressly found that all "rebel" states lacked legitimate governments, a finding vindicated when the 1890 Mississippi state government subsequently abolished the 1868 Mississippi constitution that had complied with the 1867 Military Reconstruction Acts by being ratified by the Mississippi voters and approved by the Congress, facts which may disqualify the 5th circuit panel, and the Mississippi state government officials, from holding public office in the U.S. or in Mississippi?
6. Whether the district court and the 5th circuit panel failed to follow U.S. Supreme Court precedent in Shapiro v. McManus, 136 S. Ct. 450 (2015), United States v. Cotton, 535 U.S. 625, 630 (2002), Johnson v. Mississippi, 421 U.S. 213 (1975), City of Greenwood v. Peacock, 384 U.S. 808, 828 (1966), and 5th circuit precedent in Walker v. State of Georgia, 417 F.2d 5 (5th Cir. 1969)?

Statement of the course of proceedings and disposition of the case.

This case was removed from a Mississippi state

court because the notice of removal alleged that the 1890 Mississippi constitution is void (1) because it did not comply with the 1867 Military Reconstruction Acts and an 1870 Act readmitting Mississippi to the U.S. Congress (2) because the 1890 constitution unlawfully supplanted the 1868 Mississippi Constitution that, in compliance with the above federal statutes, was ratified by the voting electorate and approved by the U.S. Congress; ergo, any criminal prosecution in a void state court is also a nullity, and (3) that the 1890 Mississippi constitution illegally moved its eastern boundary to a site in Alabama to permanently dilute the voting power of the 1890 "Colored" majority of 190,000 (compared with 69,000 "Whites") by annexing Alabama counties with white majorities. The district court summarily remanded the case back to state court, and my appeal to this court was rejected on November 7, 2023.

Argument

The questions to be answered are (1) whether the notice of removal sufficiently alleged, pursuant to 28 U.S.C. § 1443(1), that I am immune from prosecution by a Mississippi state government whose existence is a nullity due to Mississippi's noncompliance with multiple federal laws expressly providing for racial equality in voting for post-Civil War constitutions in Mississippi, (2) whether this court has subject matter jurisdiction, rather than a three-judge court under 28 U.S.C. § 2284 and Shapiro v. McManus, 136 S. Ct. 450 (2015), over the claim in the notice of removal that the 1890 Mississippi constitution unlawfully moved its eastern boundary to include white majority

counties in Alabama, (3) whether the present day descendants of American Slaves, of which I am one, have been denied our right, under multiple federal statutes, to vote for the ratification of post-Civil War constitutions in Mississippi in properly apportioned state legislative and congressional election districts, a subject matter jurisdictional issue that can only be determined by a three-judge court, and (4) whether Section 3 of the 14th Amendment to the U.S. Constitution was violated by the 5th circuit panel's November 7, 2023 decision in this matter, i.e., giving "aid or comfort" to a Mississippi state government that has openly rebelled against multiple federal laws providing for racial equality regardless of "race, color, or previous condition of servitude".

I alleged the following in my notice of removal; Because the 1890 Mississippi Constitution was neither presented, for ratification, to the 190,000 "colored" voters who constituted 73% of the Mississippi voters according to a reference in *Williams v. Mississippi*, 170 U.S. 213 (1898), nor approved by the U.S. Congress as was required by the federal laws found at 14 Stat. 428 (March 2, 1867), 15 Stat. 2 (March 23, 1867), and 16 Stat. 67 (February 23, 1870), following the Civil War, and as was done for the 1868-1869 Mississippi Constitution which was both ratified by the Mississippi electorate and approved by the U.S. Congress, my claim is that the present Mississippi Constitution of 1890, which was cobbled together by 134 men instead of by the entire voting electorate, is invalid and thus deprives any court in Mississippi from acquiring jurisdiction over any matter until compliance with the above federal

laws takes place, or Mississippi opts to operate under the 1868-1869 Mississippi Constitution which complied with the above federal laws. Because the above federal laws were designed to assure that nonwhites had the same rights and privileges enjoyed by whites, a violation of those laws fits within the parameters established by the Reconstruction Congress for removal of certain criminal prosecutions to federal court as authorized by 28 U.S.C. §§ 1443, 1455.

The district court wrote the following;
The allegations in Defendant's Notice of Removal regarding the ratification of the 1890 Mississippi Constitution are insufficient to support removal under § 1443(1). The United States Supreme court has repeatedly adjudicated controversies surrounding the 1890 Mississippi Constitution, but has never even so much as intimated that its ratification renders it illegitimate. ... In *Williams v. State of Mississippi*, the Supreme Court dealt with arguments similar to Defendant's. 170 U.S. 213. ... The Court is aware of no other authority since that time that addresses whether the method of ratification invalidates the 1890 Mississippi Constitution. Subsequent federal courts' adjudication of cases regarding controversies born of Mississippi's constitution impliedly endorse its legitimacy. As such, Defendant's argument is unavailing. ... The question of the constitutionality of a statute must be substantial before there is a right to a three-judge panel. ... "The district judge to whom the application for a three-judge court is addressed may dismiss a

complaint which fails to raise a substantial federal question. ... Defendant's Motion and related filings advance claims regarding Mississippi's Constitution, Mississippi's boundaries, and a cringeworthy call to expel from the state its predominantly white counties. ... Defendant's Motion, however, fails to raise a substantial federal question. Defendant's proffered substantial federal question is that the Mississippi Constitution of 1890 violates federal law, and in so doing, the state government it institutes is illegitimate. Defendant is incorrect. As discussed supra, Defendant's arguments regarding the legitimacy of the 1890 Mississippi Constitution are unavailing. The Court declines to declare the 1890 Mississippi Constitution invalid, and in so doing dismantle the state government and its courts, all for the purpose of relieving Defendant of a $60.00 speeding ticket. As such, the Court will deny Defendant's Motion for a three-judge panel. Furthermore, Defendant ignores the plain language of Section 2284, which permits three-judge courts only when "an action is filed challenging the constitutionality. ... The action here is the speeding ticket proceeding that the local law enforcement initiated, not Defendant's Notice of Removal or Motion. Because the action, a speeding ticket prosecution, challenges not the constitutionality of voting districts but merely the rate at which Defendant drove, the Court must deny Defendant's Motion. (emphasis added).

In *Walker v. State of Georgia*, 417 F.2d 5 (5th Cir. 1969), this court contradicted the district court,

above, by writing the following;

The test of removability is comparable to the test for the existence of federal jurisdiction — the well pleaded petition of the petitioner. This test of removability is governed, in the first instance, by the content of the petition and not the characterization given the conduct in question by the prosecution. (emphasis added).

The district's fixation on the monetary amount of the traffic ticket did not comply with Walker which noted the well-pleaded rule.

On appeal, the 5th circuit panel of Hayes, Graves, and Higgins apparently adopted the position that states' rights was the actual cause of the Civil War and that American Slavery was just a side issue by writing the following regarding the removal requirements in 28 U. S. C. §1443;

Prewitt appears to assert that the cited Reconstruction Era statutes constitute the federal civil rights laws stated in terms of racial equality, as required under the first prong of Johnson, 421 U.S. at 219. He also appears to contend that the 1890 Mississippi Constitution is the formal expression of state law by which he is being denied, or cannot enforce, his purported federal rights under the Reconstruction Era statutes, as required by the second prong of *Johnson*, 421 U.S. at 219-20. However, Prewitt has not shown that the Reconstruction Era statutes "provide[] for specific civil rights stated in terms of racial equality. " *Johnson*, 421 U.S. at 223 (internal quotation marks and citation omitted). Moreover, he fails to explain how the provisions in Mississippi's 1890 Constitution

deprive him, or prevent the enforcement, of any race-based civil rights purportedly contained in the cited Reconstruction Era statutes. See id. at 219-20. Accordingly, Prewitt has not made the required showing for removal under § 1443(1).

Yet, an 1867 Military Reconstruction Act stated the following;

1. "WHEREAS no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas..." See the Military Reconstruction Act found at 14 Stat. 428 (March 2, 1867) (emphasis added).
2. Section 5 of the above Military Reconstruction Act states the following;
SEC. 5. And be it further enacted, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the conventions of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution

shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted there on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: Provided, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

3. The February 23, 1870 Act which readmitted Mississippi to the U.S. Congress stated the following; ...That the State of Mississippi is admitted to representation in Congress as one of the States of the Union, upon the following fundamental conditions: First, That the constitution of Mississippi shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such

crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: Provided, That any alteration of said constitution, prospective in its effects, may be made in regard to the time and place of residence of voters. Second, That it shall never be lawful for the said State to deprive any citizen of the United States, on account of his race, color, or previous condition of servitude, of the right to hold office under the constitution and laws of said State, or upon any such ground to require of him any other qualifications for office than such as are required of all other citizens. Third, That the constitution of Mississippi shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the school rights and privileges secured by the constitution of said State. (emphasis added).

Contrary to the legal analysis of the 5th circuit panel, it should be clear that the highlighted sections in the above statutes were placed there to emphasize racial equality in the construction of a new state constitution for Mississippi, for Mississippi's read-mission to the U.S. Congress, and for the beginning of new political and educational opportunities for the former American Slaves, thus satisfying the first requirement of 28 U.S.C. §1443. The 5th circuit panel wrote that my notice of removal did not meet the second part of 28 U.S.C. §1443 because of a failure to "explain how the provisions in Mississippi's 1890 Constitution deprive him, or prevent the enforcement, of any race-based civil rights purport-

edly contained in the cited Reconstruction Era statutes." But in the notice of removal, I made it abundantly clear that the 1890 Mississippi is invalid and void because the 1890 Mississippi officials failed to comply with the 1867 Military Reconstruction Acts so it is downright peculiar that the 5th circuit panel expected me to point out certain, specific offending provisions in a void Mississippi constitution when my claim is that the entire document is a nullity?

The 5th circuit panel, in dismissed my request for a three-judge panel in the following language;
Pursuant to § 2284(a), "[a] district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body." Here, the district court determined that there was not an action challenging the constitutionality of the voting districts, given that the germane action in this case was Prewitt's criminal proceeding based on his speeding ticket, not his notice of removal. Because Prewitt has failed to specifically address and allege error in the district court's reasoning on this point, he has abandoned any challenge to the denial of this motion. See *Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F .2d 744, 748 (5th Cir. 1987).

But the subject matter jurisdiction of a three-judge court cannot be waived. *United States v. Cotton*, 535 U.S. 625, 630((2002)("[S]ubject-matter jurisdiction, because it involves a court's power to hear a case, can never be forfeited or waived.") The allegations in the notice of removal concerning the

illegal movement of Mississippi's eastern boundary were the following;

To doubly insure that "white supremacy" was irrevocably established in Mississippi, in addition to the refusal to present the 1890 Mississippi Constitution for ratification by the 190,000 "colored" majority and by the U.S. Congress, 133 white supremacists, abetted by one peculiar groveler for whom his part in the disenfranchisement of the "colored" majority continued his lifelong obeisance to white enslavers, moved the eastern boundary of Mississippi from its original site on Mississippi's Pearl River, i.e., the northwest corner of Washington County, Mississippi as described in the 1817 Mississippi Constitution, to the northwest corner of Washington County, Alabama as described in the 1890 Mississippi Constitution, thus creating a new voting majority for Mississippi whites by unlawfully annexing Alabama counties with white voting majorities in violation of the U.S. Constitution's "Article IV, Section 3, Clause 1 which states the following;

> New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress." (emphasis added).

That the Pearl River was the boundary line for

Washington County which separated 1817 Mississippi from what became Alabama in 1819 is supported by Section 4 in an 1803 federal law found at 2 Stat. 230 which states the following;
SEC. 4. And be it further enacted, That for the disposal of the lands of the United States within the Mississippi territory, two land-offices shall be established in the same, one at such place in the county of Adams, as shall be designated by the President of the United States, for the lands lying west of "Pearl river," sometimes called "half-way river " and one at such place in the county of Washington, as shall be designated by the President of the United States, for the lands lying Register and east of Pearl river:.... (emphasis added).

Because my notice of removal expressly alleged that the movement of the 1890 Mississippi boundary violated Article IV, Section 3, Clause 1 by creating new states with mal-apportioned legislative and congressional election districts in Mississippi and Alabama, the 5th circuit panel lacked subject matter jurisdiction over that claim which is statutorily reserved, under 28 U.S.C. § 2284, for a three-judge court.

Conclusion

This case lays bare the continuing animus in the federal judiciary toward post-Civil War rights for the former American Slaves and their present-day descendants. The post-Civil War legacy of the federal judiciary is writ large in Plessy v. Ferguson's "Separate but Equal" fiasco, the tolerance of

Reconstruction Era murders in political settings in United States v. Cruikshank 92 U.S. 542 (1876), in Shelby v. Holder, and in the cloaking of judicial hostility toward the descendants of American Slaves in arcane topics like "dual federalism" and "judicial discretion". Section 3 of the 14th Amendment may be a way to rein in the judicial antipathy against those who are descended from American Slaves by putting judicial decisions up for peer review, not by members of the judicial fraternity, but by American juries in this great country who have an innate sense about right and wrong.

The panel's November 7, 2023 decision inadvertently provides the answer to a question that has troubled generations of people descended from American Slaves, who never accepted the preposterous myth that millions of African Slaves were transported across the "bounding main", i.e., the Atlantic Ocean, to what became the United States when slave ship records demonstrate that few, if any, slave ships actually reached the shores of what became the United States, and that question is the following; how were indigenous nonwhites enslaved in our own land? The myth's preposterousness is amply demonstrated by the fact that the supposed slave ship on display at the Smithsonian Institute's National Museum of African American History & Culture is actually a ship that sunk off the South African coast and was never anywhere near the United States. The National Museum of African American History & Culture should be correctly renamed with the opening sentence of Paul Lawrence Dunbar's "Sympathy" which states that "I

know what the caged bird feels". When a 5th circuit panel can write that the 1867 Military Reconstruction Acts did not provide "for specific civil rights stated in terms of racial equality", then all descendants of American Slaves know that we are still just caged birds and just how we were enslaved in our own land. I ask for en banc rehearing.

s/

George Dunbar Prewitt, Jr.
537 Dampier Drive
Greenville, MS 38701

Certificate of Service

Although the Mississippi Attorney General was notified of this case, she chose not to appear, and I am the only party in this case.

s/

George Dunbar Prewitt, Jr.