

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

BENZO RUDNIKAS

Petitioner,

v.

STATE OF FLORIDA.

Respondent.

**PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO FILE
A PETITION FOR WRIT OF CERTIORARI**

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
COURT OF APPEALS FOR THE ELEVENTH CIRCUIT**



OCTOBER 18, 2025

BENZO RUDNIKAS, *PRO SE*

319 BIRD ROAD, CORAL GABLES, FL 33146

(305) 213-9889



To the Honorable Clarence Thomas, Associate Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

Pursuant to Supreme Court Rules 13.5, 22, 30.2, and 30.3, Petitioner Benzo Rudnikas, *pro se*, ("Petitioner") respectfully requests that the deadline to file his Petition for Writ of Certiorari in this matter be extended for (30) thirty days from the current deadline of October 28, 2025. This would make the extended deadline fall on November 27, 2025. This application is timely as it is being sent through certified mail via the United States Postal Service to the Supreme Court Clerk before the last day to file an application for extension of time as noted by the postmark/tracking number. Since the 10th day fell on a Saturday, the last day to mail the extension of time is the next business day, Monday, October 20, 2025.

BACKGROUND AND JURISDICTION

On July 17, 2024, Petitioner filed his Notice of Removal to the United States District Court for the Southern District of Florida. Petitioner asserted grounds to do so under 28 U.S.C. § 1443 and 28 U.S.C. § 1442. On November 27, 2024, the District Court issued its Order of Remand. On November 27, 2024, Petitioner filed his Notice of Appeal to the United States Court Of Appeals for the Eleventh Circuit of the Order of Remand as permitted by 28 U.S.C. § 1447(d). On July 30, 2025, the United States Court of Appeals for the Eleventh Circuit dismissed his appeal. A

copy of the Order of Remand of the District Court as well as a copy of the Order Dismissing his Appeal is attached hereto. This Court has jurisdiction to review the judgment under 28 U.S.C. § 1254(1) and Petitioner has timely invoked this Court's jurisdiction to extend the time to file a petition for writ of certiorari under 28 U.S.C. § 2101(c).

REASONS FOR GRANTING EXTENSION OF TIME

Petitioner respectfully and humbly requests a (30) thirty-day extension of time. As good cause, Petitioner respectfully states that he is requesting the extension of time mainly because his writ of certiorari is not ready yet for this Court's review. An additional 30 days will allow Petitioner to continue to revise, edit, research, review, and submit a well-polished Petition for Writ of Certiorari worthy of this Honorable Court's review. Additionally, Petitioner is requesting a 30 day extension of time because he is set to have wisdom tooth surgery next week. The appointment was set up on expedited basis because his wisdom tooth became infected and Petitioner is currently now on antibiotic to hold him off until he can get the tooth extracted. Inevitably, this will take away some crucial time that Petitioner planned on using for his petition. Lastly, Petitioner is requesting an additional (30) thirty days because he needs more time as he cannot pay for the 40 paper booklet copies of the Petition for Writ of Certiorari at this time. An additional 30 days should allow sufficient time to pay these costs.

Petitioner has conferred with Opposing Counsel for Respondent, who advised he had no objection to the requested extension.

CONCLUSION

Petitioner respectfully requests a thirty-day extension of time from the current deadline to file his Petition for Writ of Certiorari.

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to be 'Benzo Rudnikas', written in a cursive style.

Benzo Rudnikas

Executed on October 20, 2025

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13914

STATE OF FLORIDA,

Plaintiff-Appellee,

versus

BENZO ELIAS RUDNIKAS,

Defendant-Appellant,

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:24-cv-22733-JEM

Before JILL PRYOR, GRANT, and BRASHER, Circuit Judges.

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Order of the Court

24-13914

BY THE COURT:

“Appellee’s Motion to Dismiss Appeal Under Fugitive Dis-entitlement Doctrine” is GRANTED.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 24-22733-CIV-MARTINEZ

IN RE: THE ESTATE OF ELIAS B.
RUNIKAS

Deceased,

STATE OF FLORIDA,

Plaintiff,

v.

BENZO ELIAS RUDNIKAS,

Defendant.

ORDER GRANTING PLAINTIFF'S MOTION FOR REMAND

THIS CAUSE came before this Court on Plaintiff's Motion for Remand (the "Motion"), (ECF No. 5). This Court has reviewed the Motion, Defendant Benzo Elias Rudnikas' ("Benzo") Response, (ECF No. 11), Plaintiff's Reply, (ECF No. 13), pertinent portions of the record, and applicable law and is otherwise fully advised in the premises. Accordingly, after careful consideration, the Motion is **GRANTED** for the reasons set forth herein.

BACKGROUND

Elias Rudnikas ("Elias") died on November 17, 2021, leaving his entire estate to his mother, Marta Santander Rudnikas, and nothing to Benzo, his son. (Mot. at 3). Elias' estate was opened in Florida state court on January 14, 2022, with Mercedes Gonzalez ("Mercedes") serving

as Elias' personal representative. (*Id.*). Benzo later sought to object to the administration of the Estate, but the Florida probate court ruled on December 20, 2022, that he lacked standing to do so. (*Id.*). Despite the December 20, 2022 Order, Benzo continued to make court filings in and appeal from the activities in the probate proceedings. (*Id.* at 4). On May 15, 2023, the probate court conducted a hearing on a petition to strike or discharge lis pendens filed by Benzo against estate assets. (*Id.* at 5). On May 22, 2023, the court entered an order granting Mercedes' motion to strike or discharge the lis pendens and ruling that Benzo did not have standing. (*Id.* at 6). On November 29, 2023, and March 19, 2024, Benzo filed lis pendens seeking to lien Estate property in violation of the May 22, 2023 Order. (*Id.* at 7). On June 13, 2024, the probate court issued an order to show cause why Benzo should not be held in indirect criminal contempt for violating the May 22, 2023 Order and set a hearing for July 18, 2024. (*Id.* at 8). On July 17, 2024, the day before the hearing, Benzo removed to this Court. (ECF No. 1). Plaintiff now seeks to remand because the removal was untimely and because of lack of subject matter jurisdiction. (*See generally* Mot.)

LEGAL STANDARD

“[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court . . . for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a). “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—(1) citizens of different states” 28 U.S.C. § 1332(a).

A defendant bears the burden of proving federal jurisdiction on removal. *E.g.*, *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 752 (11th Cir. 2010); *Adventure Outdoors, Inc. v. Bloomberg*, 552 F.3d 1290, 1294 (11th Cir. 2008); *Leonard v. Enterprise Rent a Car*, 279 F.3d

967, 972 (11th Cir. 2002). “On a motion to remand, the removing party shoulders the burden of establishing federal subject-matter jurisdiction.” *Bowling v. U.S. Bank Nat’l Ass’n*, 963 F.3d 1030, 1034 (11th Cir. 2020). “[C]ourts are to narrowly construe the removal statute and federal jurisdiction.” *Bailey v. Janssen Pharmaceutica, Inc.*, 536 F.3d 1202, 1207 (11th Cir. 2008).

DISCUSSION

The Notice of Removal provides two bases for removal—28 U.S.C. § 1443 and 28 U.S.C. § 1442. (ECF No. 1 at ¶¶ 14–18). Plaintiff argues that neither statute provides grounds for removal and this Court agrees. First, Benzo contends removal is appropriate under 28 U.S.C. § 1443, which provides that a defendant may remove an action if it is brought:

(1) Against 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; (2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

Taylor v. Phillips, 442 F. App’x 441, 442 (11th Cir. 2011). Benzo argues that removal of the underlying estate and criminal contempt proceedings was within the scope of section 1443 as they are against a person who cannot enforce his civil rights. (ECF No. 1 at ¶ 16). Benzo further argues that he is entitled to the same protections that would be afforded to someone under the Civil Rights Act of 1964 since the ADA statute incorporates the same remedies and procedures of the Civil Rights Act of 1964. (*Id.* at ¶ 15).

A removal petition filed pursuant to § 1443(1) must satisfy the two-prong test developed in *Georgia v. Rachel*, 384 U.S. 780 (1966). First, the petitioner must show that the right upon which the petitioner relies arises under a federal law “providing for specific civil rights stated in terms of racial equality.” *Id.* at 792. Second, the petitioner must show that he has been denied or cannot enforce that right in the state courts. *Id.* at 794. Benzo has failed to satisfy both prongs of the *Rachel* test since the Notice of Removal fails to allege denial of rights arising under federal

law providing for specific civil rights stated in terms of racial equality.

Additionally, this action was not properly removable to this court under § 1443(2), which provides removal “[f]or any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.” The first clause under § 1443(2), dealing with “any act under color of authority,” confers the right to remove only upon “federal officers or agents and those authorized to act with or for them in affirmatively executing duties under any federal law providing for equal civil rights.” *City of Greenwood v. Peacock*, 384 U.S. 808, 824 (1966). The second clause under § 1443(2), dealing with “refusing to do any act on the ground that it would be inconsistent with such law,” allows the right to remove only to state officers. *Id.* at 824. Benzo has not shown that he is a state or federal officer, or working for one.

Next, Benzo argues that this action is also removable under 28 U.S.C. § 1442, which provides:

(a) A civil action or criminal prosecution that is commenced in a State court and that is against or directed to any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

(2) A property holder whose title is derived from any such officer, where such action or prosecution affects the validity of any law of the United States.

Benzo contends that removal is warranted because he is requesting that this Court transfer title of the commercial property, which is part of Elias’ estate, to Benzo. (ECF No. 1 at 18). The purpose of section 1442(a)(1) is to “permit[] the removal of those actions commenced in state

court that expose a federal official to potential civil liability or criminal penalty for an act performed . . . under color of office.” *Murray v. Murray*, 621 F.2d 103, 107 (5th Cir. 1980). The statute reflects Congress’ intent “to provide a federal forum for cases where federal officials must raise defenses arising from their official duties.” *Magnin v. Teledyne Cont’l Motors*, 91 F.3d 1424, 1427 (11th Cir. 1996). In *Willingham*, the Supreme Court noted that “the removal statute is an incident of federal supremacy, and that one of its purposes was to provide a federal forum for cases where federal officials must raise defenses arising from their official duties.” *Willingham v. Morgan*, 395 U.S. 402, 406 (1969). Here, Benzo is not a federal official addressing issues in state court and his allegations do not demonstrate a basis for invoking section 1442(a)(1). As to section 1442(a)(2), nothing in the probate estate proceedings, including the indirect criminal contempt inquiry, involves an action against Benzo related to property rights derived from a federal law. Benzo does not have any property rights at issue and the proceedings do not involve an attack on the validity of any law of the United States.

Lastly, as to fees, “the standard for awarding fees should turn on the reasonableness of the removal.” *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 138 (2005). And, generally, a district court should award fees under § 1447(c) only when “the removing party lacked an objectively reasonable basis for seeking removal.” *Id.* at 141. This Court rejects the Plaintiff’s request for fees because Benz’s removal—though improper—had “an objectively reasonable basis.”

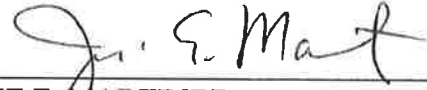
CONCLUSION

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. Plaintiff’s Motion, (ECF No. 5), is **GRANTED** as set forth herein.
2. This case is **REMANDED** to the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

3. The Clerk is **DIRECTED** to **CLOSE** this case and **DENY** all pending motions as **MOOT**.

DONE AND ORDERED in Chambers at Miami, Florida, this 26 day of November 2024.

A handwritten signature in black ink, appearing to read "Jose E. Martinez", written over a horizontal line.

JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
All Counsel of Record

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

BENZO RUDNIKAS

Petitioner,

v.

STATE OF FLORIDA.

Respondent.

CERTIFICATE OF SERVICE

Petitioner, Benzo Rudnikas, *pro se*, hereby certifies that on this 18th day of October 2025, I caused three copies of Petitioner's Application For Extension Of Time To File A Petition For Writ Of Certiorari to be filed with the U.S Supreme Court Clerk with a copy served on opposing Counsel, George Bartram Billbrough, The Billbrough Firm
7321 SW 146th Ter, Miami, FL 33158-166 Cell: 786-493-2869
bart@billbroughfirm.com.



OCTOBER 18, 2025
BENZO RUDNIKAS, *PRO SE*
319 BIRD ROAD, CORAL GABLES, FL 33146
(305) 213-9889

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
is true and correct.

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Benzo Rudnikas

Executed on October 18, 2025