

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

PEOPLE OF THE STATE OF
MICHIGAN, et al.,
Plaintiffs,

v.

LISA MARTIN, as next friend of
JASON JAMES GOODWILL,
Defendant.

Case No. 2:17-cv-54

HON. PAUL L. MALONEY

ORDER REMANDING ACTION

The matter before the Court is a "notice of removal." (ECF No. 1.) It appears that Jason Goodwill, through Lisa Martin as his next friend, removed two pending criminal cases—16-FH-9339 and 16-FY-368—from Michigan state court to this Court. For the forgoing reasons, the Court must remand both cases to state court for lack of jurisdiction. *See* 28 U.S.C. § 1447(c).

Under 28 U.S.C. § 1455, a defendant who seeks to remove a criminal prosecution from 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." 28 U.S.C. § 1455(a). "A notice of removal of a criminal prosecution shall be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time." 28 U.S.C. § 1455(b)(1). The Court is required to examine the notice

of removal promptly. Notably, “[t]he filing of a notice of removal of a criminal prosecution shall not shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.” 28 U.S.C. § 1455(b)(3). “If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.” 28 U.S.C. § 1455(b)(4).

Removal of a state court criminal action to a federal district court is permitted only in very rare circumstances. *City of Greenwood. v. Peacock*, 384 U.S. 808, 827 (1966). For example, criminal prosecutions against certain federal officials and members of the armed forces are subject to removal. *See* 28 U.S.C. §§ 1442, 1442a. In addition, 28 U.S.C. § 1443 (civil rights cases) permits removal of a criminal action by a defendant in certain scenarios:

- (1) Against any person who is denied or cannot enforce in the courts of [a] 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.

28 U.S.C. § 1443.

But that “statute is limited to those persons who are unable to enforce their right to racial equality because of some formal expression of state law.” *State of Mich. v. Garner*, 2006 WL 696518, at *1 (W.D. Mich. Mar. 14, 2006) (citing *Georgia v. Rachel*, 384 U.S. 780, 786-94 (1966)). Here, Goodwill does not cite any statutes that would permit the removal of a pending state criminal case to this Court. And the facts alleged would not allow removal under any conceivable statute.

Instead, Goodwill argues that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1361, 2241, and 2243. However, none of these statutes apply to cases where a defendant attempts to remove a pending state criminal action. Moreover, Goodwill has not complied with the procedural requirements for removing a state criminal proceeding to federal court under 28 U.S.C. § 1455 because he has not included any copies of the pleadings and orders from the criminal cases, and he may not have filed this case within thirty days of arraignment. Therefore, Goodwill has not satisfied the requirements for removal of state criminal proceedings to federal court, and this action must be remanded. *See* 28 U.S.C. § 1455 (“If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.”).

In addition, the Court must observe Goodwill’s apparent attempt at filing a civil action in his removal notice concerning state court criminal actions. A party may not file a separate action within a notice of removal or attempt to cure the Court’s lack of removal jurisdiction by attempting to file unrelated counterclaims in that document. A notice of removal is not a “pleading” within the meaning of the Federal Rules. *See* Fed. R. Civ. P. 7(a).

Even if Goodwill could raise new claims in that document, however, these claims would require dismissal.

To the extent Goodwill attempted to raise standalone claims under 28 U.S.C. § 2254, the claims would fail out of the gate. The Notice of Removal was filed by “Lisa Martin, Next Friend acting on behalf of [Goodwill.]” In order to act on a prisoner’s behalf, a putative next friend must demonstrate that the prisoner is unable to prosecute the case on his own behalf

due to “inaccessibility, mental incompetence, or other disability” and that the next friend is “truly dedicated to the best interests of the person on whose behalf he seeks to litigate.” *Whitmore v. Arkansas*, 495 U.S. 149, 163-64 (1990); see also *West v. Bell*, 242 F.3d 338, 341 (6th Cir.2001); *Franklin v. Francis*, 144 F.3d 429, 432 (6th Cir. 1998). Here, Lisa Martin never demonstrated any reason for filing this case on behalf of Goodwill. Thus, Lisa Martin, as “Next Friend,” would lack standing to file this case in federal court.

Further, to the extent Goodwill attempted to raise claims under, for example, 42 U.S.C. § 1983 or 18 U.S.C. §1961, those claims would also fail out of the gate. Pursuant to Fed. R. Civ. P. 8(a)(1), a complaint must contain a “short and plain statement of the claim showing that the pleader is entitled to relief,” but it must contain “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. v. Twombly*, 550 U.S. 544, 570 (2007).

Goodwill filed 194 pages of documents. He asserts that he was a whistleblower in a RICO case that occurred in Sheboygan, Wisconsin; he further asserts that he is a “domestic terrorism” victim in Wisconsin. Goodwill has also included what he considers “criminal complaints” that he supposedly served on sixty-nine different officials including the Governor of Wisconsin, several federal and state judges, and various other state officials. For good measure, he also “declares that he is no longer a national of the ‘United States (Inc.)’ and swears his allegiance instead to the government of the United States known as ‘the United States of America.’” (ECF No. 1 at PageID.65.)

Needless to say, it is not clear how any of these bizarre allegations relate to Goodwill’s pending criminal cases in the State of Michigan. And any claims Goodwill attempted to include in the Notice of Removal are utterly incoherent and would fail to state any claim

upon which relief could be granted. *Cf. Taylor v. Sea Way Food Town*, 187 F.3d 638, 638 (6th Cir. 1999) (“Even under the most liberal construction, the incoherent and unintelligible complaint does not state a federal cause of action or claim for relief.”).

In sum, the Court finds that Goodwill does not satisfy the requirements for removing state criminal proceedings to federal court. Therefore, the Court hereby **REMANDS** the removed actions, 16-FH-9339 and 16-FY-368, to the Delta County District and Delta County Circuit Courts respectively for lack of jurisdiction.

To the extent Goodwill wishes to file a standalone civil action under, for example, 28 U.S.C. § 2254 or 42 U.S.C. § 1983, he obviously may do so, but those claims are separate and apart from the criminal actions pending in state court, and must be filed anew. And to the extent Goodwill wishes to file such claims, he must have a good-faith basis to do so, and he must coherently and plausibly state a claim for relief.

THIS ACTION IS REMANDED.

IT IS SO ORDERED.

Dated: March 30, 2017

/s/ Paul L. Maloney
PAUL L. MALONEY
UNITED STATES DISTRICT JUDGE

Certified in a True Copy
By M. Carlson
U. S. District Court
Western Dist. of Michigan
Date 3/30/2017