

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS

State of Texas v. Erik Salvador Garcia

Garcia · No. 4:25-cv-05371 · Decided December 10, 2025

SUMMARY

The United States District Court for the Southern District of Texas recommends summarily remanding Erik Salvador Garcia’s attempted removal of a Texas misdemeanor speeding prosecution. The court concludes that federal-question jurisdiction is unavailable, the removal was untimely under 28 U.S.C. § 1455, and the prosecution does not qualify for removal under 28 U.S.C. §§ 1442 or 1443. The court also cancels the scheduled initial conference and provides a fourteen-day period for objections.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas
WRITING FOR THE COURT	Zh Y. Ho
JURISDICTION	United States District Court for the Southern District of Texas
DECIDED	December 10, 2025
DOCKET	4:25-cv-05371
DISPOSITION	remanded
PROCEDURAL POSTURE	Garcia removed a Texas state criminal speeding prosecution to federal district court and invoked federal-question jurisdiction. The magistrate judge recommended summary remand to the Municipal Court of the City of Pasadena and canceled the scheduled initial conference, subject to the parties' right to object.
STANDARD OF REVIEW	The court was required to promptly examine the notice of removal under 28 U.S.C. § 1455(b)(4) and order summary remand if it clearly appeared from the notice and attached exhibits that removal was not permitted.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Erik Salvador Garcia v. State of Texas

TOPICS

- criminal procedure
- subject matter jurisdiction
- due process
- sixth amendment
- federalism

PRACTICE AREAS

Federal jurisdiction

Removal of state criminal prosecutions

Criminal procedure

Constitutional law

QUESTIONS PRESENTED

1. Whether federal-question jurisdiction exists over a removed state criminal prosecution based on the defendant's assertion of federal constitutional violations.
2. Whether the removal was timely under 28 U.S.C. § 1455(b)(1).
3. Whether the speeding prosecution fell within any statutory category permitting removal under 28 U.S.C. §§ 1442 or 1443.

HOLDINGS

1. Federal-question jurisdiction did not exist because the underlying proceeding was a state criminal action for a state-law speeding offense, not a civil action arising under federal law, and the defendant's constitutional defenses could not create federal-question jurisdiction.
2. The removal was untimely because 28 U.S.C. § 1455(b)(1) requires removal within 30 days after arraignment or before trial, whichever is earlier, and Garcia removed the case nearly two years after his conviction.
3. Section 1442 did not authorize removal because the prosecution was not brought against the United States, a federal agency, or a federal officer, did not concern title derived from a federal officer, and involved no other circumstance specified by the statute.
4. Garcia could not remove under either subsection of § 1443 because he did not identify a federal right stated in terms of racial equality or a state-law barrier to enforcing such a right, and § 1443(2) is available only to federal officers and persons assisting them.
5. Summary remand was required because it clearly appeared from the notice of removal and attached exhibits that removal was not permitted.

FACTUAL BACKGROUND

Garcia was cited for speeding on August 15, 2023, and convicted of the misdemeanor in the Municipal Court of Pasadena, Texas, on December 6, 2023. After the appeal deadline had expired, he submitted a motion to set aside the judgment, asserting that the municipal court lacked authority over him and that a not-guilty plea had been entered over his objection. The municipal court took no action on that motion, and Garcia then attempted to remove the criminal case to federal court based on alleged due-process and Sixth Amendment violations.

PROCEDURAL HISTORY

Garcia was convicted of misdemeanor speeding in the Municipal Court of Pasadena, Texas, on December 6, 2023. Nearly two years later, he submitted a motion to set aside the state-court judgment, which the municipal court did not act on. Garcia then filed a notice of removal in the Southern District of Texas on November 10, 2025. The court recommended summary remand because federal-question jurisdiction was unavailable, the removal was untimely, and the prosecution did not fall within the federal criminal-removal statutes.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case should be summarily remanded to the Municipal Court of the City of Pasadena. The February 27, 2026 initial conference was canceled. The parties were given fourteen days from service of the Report and Recommendation to file written objections.

CASES CITED

- Bernhard v. Whitney National Bank, 523 F.3d 546, 551 (5th Cir. 2008)
- Holmes Group, Inc. v. Vornado Air Circulation Systems, Inc., 535 U.S. 826, 831 (2002)
- Merrell Dow Pharmaceuticals, Inc. v. Thompson, 478 U.S. 804, 808 (1986)
- Johnson v. Mississippi, 421 U.S. 213, 219-20 (1975)
- Georgia v. Rachel, 384 U.S. 780, 792, 799, 803 (1966)
- County of Yazoo, Mississippi v. Prewitt, 2023 WL 7381440, at *1-2 (5th Cir. Nov. 7, 2023) (per curiam)
- City of Greenwood v. Peacock, 384 U.S. 808, 815 (1966)
- Ortiz v. City of San Antonio Fire Department, 806 F.3d 822, 825 (5th Cir. 2015)

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