

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

State of Kansas v. Sean Suttington

No. 26-3128-JWL (D. Kan. May 14, 2026) · No. 26-3128-JWL · Decided May 14, 2026

SUMMARY

The United States District Court for the District of Kansas dismissed Sean Suttington’s attempted removal of his Kansas state criminal case. The court held that the notice was untimely, failed to state grounds for removal, and did not include the required state-court documents; because the state case had not been removed, remand was unnecessary.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	May 14, 2026
DOCKET	26-3128-JWL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant attempted to remove his Kansas state criminal case to federal district court after pleading guilty and while his state appeal was pending. The federal court dismissed the removal action.
STANDARD OF REVIEW	Under 28 U.S.C. § 1455(b)(4), the court must promptly examine a notice of removal and summarily remand if it clearly appears from the face of the notice that removal should not be permitted. Because the state case had not been removed, the court dismissed the federal action instead.
PRECEDENTIAL VALUE	Unknown; memorandum and order from a federal district court with no reporter citation.
PARTIES	Sean Suttington v. State of Kansas

TOPICS

- criminal procedure
- pleadings
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a state criminal defendant may remove a criminal case to federal court after conviction and sentencing while the case is pending on appeal.
2. Whether the notice of removal satisfied the statutory requirements for a criminal removal under 28 U.S.C. § 1455.
3. Whether the federal court should remand or dismiss when the state criminal case was never actually removed from state court.

HOLDINGS

1. A state criminal defendant may remove under 28 U.S.C. § 1443(1) only by alleging denial of a federal right arising under a specific law protecting racial equality and inability to enforce that right in the state proceeding; *Suttington* alleged no permissible ground for removal.
2. The notice of removal was untimely because it was filed after the defendant had pleaded guilty and been sentenced, rather than no later than thirty days after arraignment or before trial, absent an applicable showing of good cause.
3. The notice was deficient because it did not include all grounds for removal and failed to include copies of all process, pleadings, and orders served on the defendant.
4. Dismissal was appropriate because the state criminal case had not been removed to federal court; remand was unnecessary.

KEY QUOTATIONS

“The general rule is that a criminal prosecution can be removed from a state to a federal court only after indictment and before trial.”

*“Because Mr. *Suttington*’s state court criminal case does not reflect that a notice of removal was filed in that case or that the case was removed to this Court, the posture of this case is such that remand is not necessary. Therefore, dismissal is appropriate.”*

FACTUAL BACKGROUND

Suttington pleaded guilty to interference with parental custody in a Kansas state criminal case. He filed a pro se appeal and his attorney appealed the sentence; the case was pending on appeal when he sought federal removal. The state docket did not show that a notice of removal had been filed in the state case or that the case had been removed to federal court.

PROCEDURAL HISTORY

Suttington pleaded guilty in the District Court of Wyandotte County, Kansas, to interference with parental custody. He filed a pro se notice of appeal, and his attorney separately appealed the sentence. He then filed a notice of removal in the federal district court, although the state docket did not reflect that a notice of removal

had been filed there. The federal court concluded that the notice was untimely, failed to identify a permissible removal ground, and did not include the required state-court materials; because no removal had actually occurred, the court dismissed rather than remanded the matter.

DISPOSITION

dismissed

CASES CITED

- Massachusetts v. Libertad, Civ. Action No. 22-10131-DJC, 2022 WL 479799, at *2 (D. Mass. Feb. 16, 2022)
- Johnson v. Mississippi, 421 U.S. 213, 219 (1975)
- Miller v. Louisiana, Civ. Action No. 18-14251, 2019 WL 1293273, at *2 (E.D. La. Mar. 1, 2019)
- Smith-El v. Louisiana, Civ. Action No. 16-cv-1310, 2016 WL 8900203, at *1 (W.D. La. Sept. 27, 2016), adopted, 2017 WL 1821111 (W.D. La. May 3, 2017)
- Barber v. Vance, Case No. 3:16-cv-2105, 2019 WL 267874, at *2 (D. Or. Jan. 18, 2019)
- New Hampshire v. Woodham, Case No. 21-cr-128-JL, 2022 WL 1432069, at *2 (D.N.H. Apr. 6, 2022), adopted, 2022 WL 1423608 (D.N.H. May 4, 2022)
- Colombo v. County of Suffolk, 2010 WL 1459196, at *1 (E.D.N.Y. Apr. 8, 2010)