

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA

Michael James Cable v. State of Indiana

Cable · No. 1:26-cv-01279-SEB-KMB · Decided June 23, 2026

SUMMARY

The United States District Court for the Southern District of Indiana dismissed Michael James Cable’s attempted removal of a 2009 Indiana criminal case as frivolous. The court held that the criminal case had been dismissed years earlier and did not qualify for removal under 28 U.S.C. §§ 1441 or 1443, leaving nothing to remand. The court warned Cable that continued frivolous filings could result in filing restrictions.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana
WRITING FOR THE COURT	Sarah Evans Barker
JURISDICTION	United States District Court for the Southern District of Indiana
DECIDED	June 23, 2026
DOCKET	1:26-cv-01279-SEB-KMB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff attempted to remove a previously dismissed state criminal prosecution to federal district court under 28 U.S.C. § 1441. The district court examined the notice of removal and dismissed the federal action as frivolous rather than remanding it because no criminal case remained pending in state court.
STANDARD OF REVIEW	Prompt facial examination of a criminal notice of removal under 28 U.S.C. § 1455(b)(4); summary remand is required when it clearly appears that removal should not be permitted.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Michael James Cable v. State of Indiana

TOPICS

- subject matter jurisdiction
- civil procedure
- criminal procedure
- federalism
- sanctions

PRACTICE AREAS

federal jurisdiction

criminal procedure

civil procedure

judicial administration and sanctions

QUESTIONS PRESENTED

1. Whether 28 U.S.C. § 1441 authorized removal of Cable's state criminal prosecution.
2. Whether the criminal prosecution qualified for removal under 28 U.S.C. § 1443(1) or § 1443(2).
3. Whether the district court should remand the matter when the underlying state criminal case had already been dismissed.
4. Whether the federal action should be dismissed as frivolous.

HOLDINGS

1. Section 1441 governs removal of civil actions and does not authorize removal of a criminal action.
2. Removal under § 1443(1) requires a showing that the denied right arises under federal law providing for specific civil rights stated in terms of racial equality and that the state courts will deny or will not enforce those rights; Cable made no such showing.
3. Section 1443(2) permits removal only by federal officers or agents, or persons authorized to act with or for them in executing duties under federal equal-rights law; Cable did not fall within that category.
4. Remand was unnecessary because the underlying state criminal prosecution had been dismissed and there was no pending state case to which the matter could be remanded.

KEY QUOTATIONS

"Pursuant to 28 U.S.C. § 1455(b)(4), "[t]he United States district court in which [a] notice [of removal] is filed shall examine the notice promptly. 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."

"Because Mr. Cable's case does not fit into either provision under §1443, this Court would have lacked subject matter jurisdiction over the criminal case if he had tried to remove it here when the case was pending."

"Mr. Cable has filed a notice of removal in a criminal case that was dismissed in state court in 2009. Thus, there is no cognizable basis for removal, and there is nothing for this Court or the state court to act on."

FACTUAL BACKGROUND

Cable had been charged with invasion of privacy in an Indiana state criminal case filed on July 7, 2009. The State dismissed that case on September 24, 2009, nearly twenty years before Cable filed his federal notice of removal. Cable nevertheless attempted to remove the former criminal prosecution under 28 U.S.C. § 1441.

PROCEDURAL HISTORY

Cable had previously been charged with invasion of privacy in Marion County, Indiana, in state case No. 49G17-0907-FD-062422. The State dismissed that criminal case on September 24, 2009. In 2026, Cable filed a notice of

removal seeking to remove the former criminal case to the Southern District of Indiana. The district court concluded that § 1441 applies to civil actions, that the requirements for criminal removal under § 1443 were not met, and that there was no pending state proceeding to remand.

DISPOSITION

dismissed

CASES CITED

- Johnson v. Mississippi, 421 U.S. 213, 219 (1975)
- Application of County Collector of Winnebago, Ill., 96 F.3d 890, 897 (7th Cir.)
- Application of County Collector of Winnebago, Ill., 96 F.3d 890, 895 (7th Cir.)
- Cook v. Weber, 698 F.2d 907, 909 (7th Cir.)
- Martin v. Redden, 34 F.4th 564, 569 (7th Cir. 2022)
- Montgomery v. Davis, 362 F.3d 956, 957 (7th Cir. 2004)
- In re McDonald, 489 U.S. 180, 184 (1989)
- Support Sys. Int'l v. Mack, 45 F.3d 185, 186 (7th Cir. 1995)
- Kelly Fuery v. City of Chicago, Fuery v. City of Chicago, 900 F.3d 450, 452 (7th Cir. 2018)
- Goodyear Tire & Rubber Co. v. Haeger, 137 S. Ct. 1178, 1186 (2017)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA INDIANAPOLIS
DIVISION MICHAEL JAMES CABLE,)) Plaintiff,)) v.) No. 1:26-cv-01279-SEB-KMB)
STATE OF INDIANA,)) Defendant.) Order Directing Clerk to Close Case Michael James Cable
is currently incarcerated at the Marion County Adult Detention Center.

For the reasons explained in this Order, this action is dismissed as frivolous. I. Discussion Mr. Cable, who was once a defendant in the state court criminal case docketed as No. 49G17-0907-FD-062422, filed a notice of removal of that action to this Court. Mr. Cable seeks removal under "28 U.S.C. § 1441." Dkt. 1 at 1. But § 1441 governs the removal of civil actions, not criminal actions.

Pursuant to 28 U.S.C. § 1443, a criminal action commenced in a State court may be removed by a defendant to the district court if it is an action: (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; [or] (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.

A notice of removal of a criminal prosecution shall include all grounds for such removal. 28 U.S.C. § 1455(b)(2). Pursuant to 28 U.S.C. § 1455(b)(4), "[t]he United States district court in which [a] notice [of removal] is filed shall examine the notice promptly. 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."

For removal to be proper under 28 U.S.C. § 1443(1), a defendant must show that (1) the right denied arises under federal law providing for specific civil rights stated in terms of racial equality, and (2) the state courts will deny or not enforce those specified federal rights. See *Johnson v. Mississippi*, 421 U.S. 213, 219 (1975). Section 1443(2) "confers a privilege of removal 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 rights."

Application of County Collector of Winnebago, Ill., 96 F.3d 890, 897 (7th Cir. 1996). In his state court case, Mr. Cable was charged with invasion of privacy on July 7, 2009. But the action was dismissed by the state on September 24, 2009. See Case Summary, 49G17- 0907-FD-062422, available at mycase.in.gov.

Because Mr. Cable's case does not fit into either provision under §1443, this Court would have lacked subject matter jurisdiction over the criminal case if he had tried to remove it here when the case was pending. *Application of County Collector of Winnebago, Ill.*, 96 F.3d at 895 ("Removal jurisdiction is... completely statutory, and [the court] cannot construe jurisdictional statutes any broader than their language will bear.") (citing *Cook v. Weber*, 698 F.2d 907, 909 (7th Cir.

1983)). But remand here is not necessary. As this case was dismissed nearly 20 years ago, there is no pending criminal case to remand this action to. The Court will not waste the Marion County court's time with this frivolous matter. Instead, this action is dismissed as frivolous. II. Warning about Frivolous Filings The Court now takes the opportunity to warn Mr. Cable that if he continues his practice of "abusive or frivolous litigation" he may be subjected to a filing restriction.

Martin v. Redden, 34 F. 4th 564, 569 (7th Cir. 2022) (upholding filing ban of litigant who had repeatedly made false statements in court). "Every paper filed ... no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice."

Montgomery v. Davis, 362 F.3d 956, 957 (7th Cir. 2004) (quoting *In re McDonald*, 489 U.S. 180, 184 (1989)). Frivolous filing behavior cannot be tolerated, and "the judicial authority to curb it is ample." *Support Sys. Int'l v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995) (collecting cases); see also *Fuery v. City of Chicago*, 900 F.3d 450, 452 (7th Cir. 2018) ("District courts 'possess certain

inherent powers, not conferred by rule or statute, to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.

That authority includes the ability to fashion an appropriate sanction for conduct which abuses the judicial process."') (quoting *Goodyear Tire & Rubber Co. v. Haeger*, 137 S. Ct. 1178, 1186, (2017) (internal citations omitted)).

The Court will not issue any sanctions at this time, but Mr. Cable is cautioned that it will if he persists in filing frivolous pleadings. III. Conclusion Mr. Cable has filed a notice of removal in a criminal case that was dismissed in state court in 2009.

Thus, there is no cognizable basis for removal, and there is nothing for this Court or the state court to act on. This action is dismissed as frivolous. The clerk is directed to enter final judgment. IT IS SO ORDERED. Date: 6/23/2026 Mud Bous Biker SARAH EVANS BARKER, JUDGE United States District Court Southern District of Indiana Distribution: MICHAEL JAMES CABLE 488954 MARION COUNTY JAIL MARION COUNTY JAIL ADC Mail Room 695 Justice Way Indianapolis, IN 46203