

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Richard Peter Jones and Michael Joseph Bitgood a/k/a Michael
Easton v. City of Sugar Land, Texas, et al.

Jones v. City of Sugar Land · No. 4:24-cv-2986 · Decided December 9, 2025

SUMMARY

The United States District Court for the Southern District of Texas denies the plaintiffs’ motions to remand, concluding that any procedural objection to removal was waived and that the court retained jurisdiction. Because the plaintiffs declined to file a compliant amended pleading after their prior pleading was struck, the court dismisses the case without prejudice.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Andrew S. Hanen
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	December 9, 2025
DOCKET	4:24-cv-2986
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs filed a § 1983 action in Texas state court, defendants removed it to federal court, and the federal court struck plaintiffs' amended petition for violating the Federal Rules of Civil Procedure. After plaintiffs declined to file a compliant, succinct complaint and instead moved to remand, the court denied remand and dismissed the action without prejudice.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- pleadings
- subject matter jurisdiction
- motions to dismiss
- section 1983
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the case had to be remanded because the court had struck the operative pleading and plaintiffs asserted that no live pleading remained.
2. Whether the alleged failure of all defendants to join in removal required remand under the rule of unanimity.
3. Whether dismissal without prejudice was appropriate after plaintiffs failed to comply with the order to file a compliant complaint and expressly declined to replead.

HOLDINGS

1. Striking the amended petition did not require remand because the plaintiffs' arguments did not establish a jurisdictional defect requiring return of the case to state court.
2. Failure of all defendants to join in a removal petition is not a jurisdictional defect, and any such procedural objection was waived because plaintiffs did not move to remand within 30 days after removal.
3. Dismissal without prejudice was appropriate because plaintiffs failed to comply with the order requiring a compliant complaint and expressly declined to replead.

KEY QUOTATIONS

“Jurisdictional defects require remand to state court, and may be asserted at any point before a final, non-appealable judgment is rendered.” (§ II)

“The failure of all the defendants to join in the removal petition is not a jurisdictional defect.” (§ II)

“For the foregoing reasons, this case is hereby DISMISSED without prejudice.” (§ II)

FACTUAL BACKGROUND

Richard Peter Jones and Michael Joseph Bitgood brought claims under 42 U.S.C. § 1983 against the City of Sugar Land, Texas, and several individual defendants. After removal, the federal court struck their voluminous amended petition because it did not comply with the Federal Rules of Civil Procedure and ordered them to file a succinct complaint stating the facts and claims supporting relief. Rather than replead, both plaintiffs expressly declined to do so and sought remand.

PROCEDURAL HISTORY

Plaintiffs filed their First Amended Petition in the 458th District Court of Fort Bend County, Texas, expressly invoking 42 U.S.C. § 1983. Defendants removed the action based on federal-question jurisdiction. The district court struck the amended petition and ordered plaintiffs to file a short and plain complaint by July 25, 2025. Plaintiffs declined to replead and moved to remand; the court denied those motions and dismissed the case without prejudice.

DISPOSITION

dismissed

CASES CITED

- Hinkley v. Envoy Air, Inc., 968 F.3d 544, 549 (5th Cir. 2020)
- FDIC v. Loyd, 955 F.2d 316, 323 (5th Cir. 1990)
- Johnson v. Helmerich & Payne, Inc., 892 F.2d 422, 423 (5th Cir. 1990)

OPINION

Jones

PER CURIAM.

Southern District of Texas

ENTERED

IN THE UNITED STATES DISTRICT COURT December 10, 2026 FOR THE SOUTHERN
DISTRICT OF TEXAS Nathan Ochsner, Clerk

HOUSTON DIVISION

RICHARD PETER JONES and MICHAEL §

JOSEPH BITGOOD a/k/a MICHAEL §

EASTON, §

§ Plaintiffs, §

VS. § CIVIL ACTION NO. 4:24-cv-2986

§ CITY OF SUGAR LAND, TEXAS, et al., § § Defendants. §

ORDER

I. Plaintiffs, Richard Jones (“Jones”) and Michael Bitgood (“Bitgood”), filed their First Amended Petition in the 458th District Court of Fort Bend, County Texas, expressly “invoking Title 42 U.S.C. § 1983.” (Doc. No. 1 at 3). Defendants then jointly removed the case to this Court invoking its federal-question jurisdiction. (/d. at 4). Bitgood is proceeding pro se; Jones is represented by counsel. (Though it seems Bitgood is the primary author of the filings at issue here.) In their First Amended Petition, Plaintiffs asserted claims against the City of Sugar Land, Texas, Bryce Spencer, Bennett Dodson, and Daniel Edmunds under § 1983. (Doc. No. 1-11 at 1). This Court previously struck Plaintiffs’ First Amended Petition and exhibits because their voluminous length violated the Federal Rules of Civil Procedure. (Doc. No. 56 at 2). In doing so, Plaintiffs were ordered to file a succinct complaint setting out a short and plain statement of the facts and claim(s) demonstrating their entitlement to relief no later than July 11, 2025. U/d.). After Plaintiffs requested more time, this Court granted them until July 25, 2025, to file their complaint. (Doc. No. 58). Instead of complying with this Court’s Order to file a complaint that complied with the Rules, Bitgood filed his Motion to Remand or in the Alternative, Motion to Appoint Counsel (Doc. Nos. 61, 62). In that

motion, Bitgood stated that “Bitgood declines to amend or re-plead.” (Doc. No. 61 at 7). Jones then filed his own Conditional Motion to Remand stating that “Jones respectfully declines to re-plead[] and moves the Court to remand the case.” (Doc. No. 63 at 1). Defendants City of Sugar Land and Bryce Spencer responded to each of these motions. (Doc. No. 64). Defendant Bennett G. Dodson also filed a Motion to Dismiss urging this Court to deny Plaintiffs’ Motions to Remand and dismiss Plaintiffs’ complaint. (Doc. No. 66). Plaintiffs then responded to Dodson’s Motion to Dismiss (Doc. No. 67). II. In their Motions to Remand, Plaintiffs argue that because the Court struck the First Amended Complaint, there is no live pleading, therefore this Court must remand the case to state court as it has no jurisdiction, and Bitgood has “declined to invoke jurisdiction of this Court.” (Doc. No. 61 at 9). Plaintiffs also argue that the State of Texas was a party to this suit, and the State did not consent to removal. Thus, under the rule of unanimity, the case must be remanded. (/d. at 7). These arguments are unavailing. Removal may be improper for jurisdictional or procedural reasons. *Hinkley v. Envoy Air, Inc.*, 968 F.3d 544, 549 (Sth Cir. 2020). “Jurisdictional defects require remand to state court,” and may be asserted at any point before a final, non-appealable judgment is rendered. *Jd.* “By contrast, procedural defects require the action’s being remanded to state court only if plaintiff files a motion to remand ‘within 30 days after the filing of the notice of removal under section 1446(a)’ (describing removal procedure).” /d. “Otherwise, plaintiff waives any objection to the procedural defect, and the action proceeds in federal court, even though removal was procedurally improper.” /d.; *FDIC v. Loyd*, 955 F.2d 316, 323 (Sth Cir. 1992) (district courts cannot remand a case because of a procedural defect that was untimely raised). “The failure of all the defendants to join in the removal petition is not a jurisdictional defect.” *Johnson v. Helmerich & Payne, Inc.*, 892 F.2d 422, 423 (5th Cir. 1990). Therefore, even if the removal in this case had been procedurally improper, which this Court does not express a judgment on, Plaintiffs long ago waived that argument as this case was removed on August 9, 2024. (Doc. No. 1). Plaintiffs’ Motions for Remand (Doc. Nos. 61, 63) are DENIED. In its previous Order, this Court informed Plaintiffs that if they “fail[ed] to re-plead as ordered, the case will be dismissed.” (Doc. No. 56 at 2). Plaintiffs failed to heed that warning, and instead of re-pleading, they filed their Motions for Remand, which have since been denied. Plaintiffs have not subsequently re-pleaded and openly declined to do so in their motions. (Doc. No. 61 at 7) (“Bitgood declines to amend or re-plead”); (Doc. No. 63 at 1) (“Jones respectfully declines to re-plead[] and moves the Court to remand the case.”). Dismissal is appropriate. For the foregoing reasons, this case is hereby DISMISSED without prejudice. \ Signed on this the day of December 2025. \ | Sx Andrew S. Hanen United States District Judge