



## COUNTY OF ALLEGHENY et al v. STRADER

2020 | Cited 0 times | W.D. Pennsylvania | January 16, 2020

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

COUNTY OF ALLEGHENY, CITY OF PITTSBURGH, and SCHOOL DISTRICT OF PITTSBURGH, Plaintiffs, v. VANCE STRADER, Defendant.

Civil Action No. 2:19-1406 District Judge J. Nicholas Ranjan

MEMORANDUM ORDER Vance Strader loves federal court. In fact, he really loves federal court. In just the last two or so years, he has brought two lawsuits in this Court, and removed three other state-court cases here. In that brief time, he s also made two (quick) stops in the Third Circuit.

While Mr. Strader s passion for being in federal court is flattering, the law limits the cases that federal courts can accept. Legally, that means federal courts are courts of limited jurisdiction; colloquially, it means sometimes you can t make a federal case out of it.

This case is one that concerns the collection of delinquent real estate taxes by Allegheny County, the City of Pittsburgh, and the School District of Pittsburgh. There is no federal claim, as it brought under the Pennsylvania

Municipal Claims and Tax Liens Law, 53 P.S. § 7101. There is no diversity of citizenship since everyone and everything is Pennsylvania-based, and the amount at issue is roughly \$14,000. And there is no other indication from the face of the operative complaint of any other federal jurisdictional basis. Because Mr. Strader can t make a federal case out of it, the Court will remand the case to state court.

BACKGROUND Plaintiffs Allegheny County, the City of Pittsburgh, and the School District of Pittsburgh ( taxing authorities ) filed this action against Mr. Strader in the Allegheny County Court of Common Pleas. They brought it under the Pennsylvania Municipal Claims and Tax Liens Law and sought to collect about \$14,000 in delinquent real estate taxes associated with property in Pittsburgh that is allegedly owned by Mr. Strader.

Instead of a traditional complaint, the taxing authorities filed a writ of scire facias, which included a detailed statement that described the claim. The writ identified no federal claims, it described all the



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parties as Pennsylvania entities or residents, and it listed \$14,661.41 as the amount at issue, though it noted that additional fees could be sought.

After being served, Mr. Strader filed with this Court a motion for leave to proceed in forma pauperis and a timely notice of removal. [ECF 1].

This Court quickly entered an order requiring Mr. Strader to show cause why the Court should not remand the case to state court for lack of subject-matter jurisdiction. [ECF 2]. Mr. Strader and the taxing authorities have fully briefed the issue. [ECF 5 and 7].

**DISCUSSION & ANALYSIS** A court must remand a removed case if at any time before final judgment it appears that the district court lacks subject matter jurisdiction. 28 U.S.C. § 1447(c). Here, the Court finds that the action is a state-court tax collection proceeding based on state law and raises no federal issues. The face of the well-pleaded complaint (i.e., the combined writ and statement of claim) implicates no federal questions. Nor is there any argument by any party that this Court may exercise diversity jurisdiction. A charitable reading of Mr. Strader's notice of removal and show-cause response is that he may raise federal constitutional challenges to the taxes or the collection efforts. That's not enough. Federal-based defenses don't create federal jurisdiction. *Oklahoma Tax Commission v. Graham*, 489 U.S. 838, 840-41 (1989) (Whether a case is one arising under federal law, in the sense of

the jurisdictional statute, must be determined from what necessarily appears in the plaintiff's statement of his own claim in the bill or declaration, unaided by anything alleged in anticipation of avoidance of defenses which it is thought the defendant may interpose.) (all internals omitted); *U.S. Express*

*Lines Ltd. v. Higgins*, 281 F.3d 383, 397 (3d Cir. 2002) (recognizing that the asserted federal question must arise from a well-pleaded complaint, and not from the answer, the petition for removal, or an actual or theorized defense.).<sup>1</sup> Because the plain face of the writ presents no basis for federal jurisdiction and because federal-based defenses do not create jurisdiction, the Court will remand.

**CONCLUSION** After review of the pleadings and documents, the Court orders as follows: AND NOW, this 16th day of January 2020: IT IS HEREBY ORDERED that this action is REMANDED to the Court of Common Pleas of Allegheny County, Pennsylvania. IT IS FURTHER ORDERED that the Clerk of Court mark this case as CLOSED.

/s/ J. Nicholas Ranjan United States District Judge

<sup>1</sup> Some of these defenses are likely barred by the Tax Injunction Act, 28 U.S.C.A. § 1341, in any event. That Court does not have jurisdiction. See *Gass v. County of Allegheny, Pa.*, 371 F.3d 134, 136 (3d Cir. 2004).

