

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

CARLA D. CHANEY, ET AL.	:	
	:	
v.	:	Civ. Action No.
	:	3:03 CV 1990 (SRU)
STATE OF CONNECTICUT, ET AL.	:	

**ORDER OF REMAND**

On November 19, 2003, Carla D. Chaney (“Chaney”), acting pro se and on behalf of her minor children, Christopher J. Chaney and Joshua J. Johnson, initiated this action by filing a Notice Of Filing For Removal (alternatively entitled Ex Parte Request For Notice Of Removal) (doc. # 2). The court has reviewed that pleading and the other documents filed by Chaney in fulfillment of its duty to determine whether it has subject matter jurisdiction over this case. Because the court concludes that it lacks subject matter jurisdiction, the case is remanded to state court.

The underlying state proceedings that Chaney seeks to remove appear to be petitions, filed by the Connecticut Department of Children and Families in early 2002, requesting the Superior Court to enter ex parte orders granting the Department temporary custody of Chaney’s minor children. (Superior Court, Juvenile Matters, docket nos. H12028704, H12028706.) No federal statutory or constitutional issues appear on the face of the petitions at issue

In her Notice Of Filing For Removal, Chaney alleges that “the removal has taken place at this time, on the account of, the State of Connecticut, Superior Court, Juvenile Matters, has failed to protect the plaintiffs, and has violated the plaintiffs’ United States’ Constitutional Rights....” (Doc. # 4, at p. 5 (underscoring in original).) This allegation, even if assumed to be true, does

not give rise to removal jurisdiction. Chapter 28 of the United States Code, section 1446 permits a defendant to remove a civil action from state court to the United States District Court for the district where such action is pending. For removal based on original federal-question jurisdiction, the federal question must appear on the face of a properly pleaded complaint; unless federal jurisdiction would have existed had the original complaint been filed in federal court, there is no basis for removing a case on the ground of federal question jurisdiction. Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987). A claim that a state court has violated due process in its handling of a case pending in state court does not permit a defendant to remove that state case on the basis of federal question jurisdiction.

Section 1447(c) provides for remand of a case improperly removed to federal court: “If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447(c) (emphasis supplied). Because the court concludes that it lacks subject matter jurisdiction over the removed case, the action is remanded to state court on the court’s own motion. The clerk shall effect the remand and close this file.

It is so ordered.

Dated at Bridgeport this 5<sup>th</sup> day of December 2003.

s/ Stefan R. Underhill \_\_\_\_\_  
Stefan R. Underhill  
United States District Judge