

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Reginald Evans,

Plaintiff,

vs.

Sumter County Election Commission,

Defendant.

Civil Action No.: 3:23-cv-03918-JFA

**RESPONSE TO REPORT AND
RECOMMENDATION OF
MAGISTRATE JUDGE AND NOTICE
OF OBJECTION TO THE PROPRIETY
OF REMOVAL**

The Defendant Sumter County Election Commission (properly identified as the Sumter County Registration/Election Board) advises the Court that it has no objection to the Report and Recommendation of the Magistrate Judge dated August 17, 2023. The Defendant agrees with the Magistrate Judge that the Plaintiff's attempted removal of this case from the South Carolina Supreme Court was improper.

The Defendant further gives notice to this Court and the Plaintiff that it formally objects to the attempted removal as improper and urges that the case should be remanded to the State court or dismissed. This objection is made on the ground, as also determined by the Magistrate Judge, that the removal statute, 28 U. S. C. § 1441, by its plain language, allows only the defendant or the defendants to remove a civil action to the district court for the United States. The Plaintiff, who initiated this election appeal in the State circuit court, clearly is not a defendant.

As an additional ground for objection, the Defendant asserts that the Plaintiff's stated basis for removal in his Notice is improper. The Plaintiff, in his Notice of Removal, cites 28 U.S.C. § 1332 as the basis for removal. However, it is clear from the Notice that there is no diversity of citizenship between the Plaintiff (who was an unsuccessful

Ex (1)

candidate in elections for both County and City office) and the County agency that is the election board.

The Notice alleges no factual basis for status as a defendant and alleges no diversity of citizenship between the parties, and no such basis can be truthfully alleged.

August 31, 2023

s/Danny C. Crowe

Danny C. Crowe, Fed. ID #367

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