

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-1013

BANK OF AMERICA NA,

Plaintiff - Appellee,

v.

JOHNSON D. KOOLA,

Defendant - Appellant.

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SC Court of Appeals

Appeal from the United States District Court for the District of South Carolina, at Charleston. Richard M. Gergel, District Judge. (2:16-cv-01634-RMG)

Submitted: May 30, 2017

Decided: June 6, 2017

Before WILKINSON, NIEMEYER, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Johnson D. Koola, Appellant Pro Se. Theodore von Keller, CRAWFORD & VON KELLER, LLC, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Johnson D. Koola seeks to appeal the district court's order adopting the recommendation of the magistrate judge and remanding this case to the South Carolina Court of Appeals, from which it was removed. Bank of America has moved to dismiss the appeal.

Generally, “[a]n order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise.” 28 U.S.C. § 1447(d) (2012). The Supreme Court has instructed that “§ 1447(d) must be read *in pari materia* with [28 U.S.C.] § 1447(c), so that only remands based on grounds specified in § 1447(c) are immune from review under § 1447(d).” *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 127 (1995). Thus, § 1447(d)

is tightly circumscribed to cover only remand orders within the scope of . . . § 1447(c), based on (1) a district court's lack of subject matter jurisdiction or (2) a defect in removal other than lack of subject matter jurisdiction that was raised by the motion of a party within 30 days after the notice of removal was filed.

Doe v. Blair, 819 F.3d 64, 66 (4th Cir. 2016) (internal quotation marks omitted). “Whether a district court's remand order is reviewable under § 1447(d) is not determined by whether the order explicitly cites § 1447(c) or not.” *Borneman v. United States*, 213 F.3d 819, 824 (4th Cir. 2000).

Bank of America moved to remand within 30 days of Koola's notice of removal, and the district court remanded on the basis that removal was untimely. The district court also concluded that it lacked subject matter jurisdiction. Under the cited authorities, we are without jurisdiction to review the remand order. We therefore grant Bank of

Appeal: 17-1013 Doc: 18 Filed: 06/06/2017 Pg: 3 of 3

America's motion to dismiss and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

CRAWFORD & von KELLER, LLC.

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January 04, 2018

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

RE: Bac Home Loans Servicing Lp Etc, et al vs Johnson D Koola, et al
Case: 2010-CP-10-6060
Appellate case: 2014-001323
Our file no.: 3323.0242

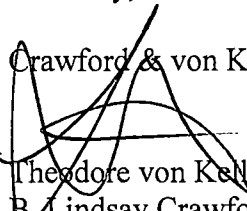
Dear Madam Clerk,

Enclosed please find the docket report for the 4th Circuit Court of Appeals and the United States District Court for the District of South Carolina (the docket is combined). Also please find copies of the necessary documents evidencing the conclusion of this matter with the 4th Circuit Court of Appeals. I believe this now concludes the matter, as the South Carolina Court of Appeals previously issued a dispositional decision and denied the petition for rehearing.

Please contact us with any questions.

Sincerely,

Crawford & von Keller, LLC


Theodore von Keller
B. Lindsay Crawford, III
Sara C. Hutchins
B. Lindsay Crawford, IV

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SC Court of Appeals

Enclosures
/sch

cc: Johnson D Koola (w/enclosures)
The Honorable Mikell R. Scarborough (w/enclosures)

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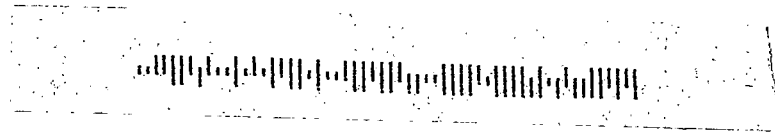
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The Honorable Jenny Abbott Kitchings
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