

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

January 20, 2011

By the Court:

THEODORE NICKEL,]	Appeal from the United	
Plaintiff-Appellee,]	States District Court for	
]	the Western District of	
No. 11-1158	v.]	Wisconsin.
]	
UNITED STATES OF AMERICA,]	No. 3:10-cv-00778-bbc	
Defendant-Appellant.]		
]	Barbara B. Crabb, Judge.	

O R D E R

A preliminary review of the short record indicates that the order appealed from may not be a final appealable judgment within the meaning of 28 U.S.C. § 1291.

This court has consistently reminded litigants that an order remanding a case to state court based on a lack of subject matter jurisdiction or a defect in the removal procedure is not reviewable on appeal, whether or not the decision is correct. *See, e.g., Rubel v. Pfizer, Inc.*, 361 F.3d 1016 (7th Cir. 2004); *Phoenix Container, L.P. v. Sokoloff*, 235 F.3d 352, 354-55 (7th Cir. 2000); *In re Continental Casualty Co.*, 29 F.3d 292, 293 (7th Cir. 1994).

In the present case, the district court explicitly determined that it lacked subject matter jurisdiction and sent the case back to state court. As such, it appears that the order is not reviewable. Accordingly,

IT IS ORDERED that appellant file, on or before February 2, 2011, a brief memorandum stating why this appeal should not be dismissed for lack of jurisdiction. A motion for voluntary dismissal pursuant to Fed. R. App. P. 42(b) will satisfy this requirement. Briefing shall be suspended pending further court order.

NOTE: Caption document "JURISDICTIONAL MEMORANDUM." The filing of a Circuit Rule 3(c) Docketing Statement does not satisfy your obligation under this order.