

**United States District Court
Northern District of Illinois**

David Martin,)	
Plaintiff)	
)	
)	
V.)	Case # 1:22-cv-06296
)	
Attorney General Kwame Raoul)	
Judge Gregory Emmett Ahern Jr.)	
Unnamed Cook County Clerks)	
Cook County)	
Chief Deputy Clerk Gretchen Peterson)	

**REPLY TO DEFENDANT'S
OPPOSITION FOR A TEMPORARY RESTRAINING ORDER**

I David Martin, state the following in response to the defendant's opposition to my motion for a temporary restraining order.

BRIEF STATEMENT OF FACTS

On 11/14/22 The Circuit Court of Cook County entered the following in its record:
"Activity Date: 11/14/2022 Event Desc: Exhibits Filed Comments: Notice of removal"

On 4/26/23 The state court entered the following in its record: "Activity Date: 04/26/2023
Event Desc: Exhibits Filed Comments: Notice of removal"

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**AHERN VIOLATED
FEDERAL LAW.**

In the defendant's opposition for a temporary restraining order, Ahern does not deny that he was provided with notice of removal. Instead, he argues that the removal was untimely and ineffective. After his determination, he issued several orders while the case was removed to federal court. However, Ahern does not have the right to make such determinations because the statute clearly deprives him of the authority to do so. In addition, even if my removal was untimely or ineffective all orders issued during the removal are still void.

As pointed out in my original motion, after removal "It is the duty of the state court to recognize the removal and proceed no further in the matter". This is made clear in the statute, **28 U.S. Code § 1446 (d) Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.** The state courts duty to not proceed has also been made clear in several cases. **"1446 expressly provides that upon removal 'the State court shall proceed no further unless and until the case is remanded.'** 28 U.S.C. Sec. 1446(e). Hence, after removal, the jurisdiction of the state court absolutely ceases and the state court has a duty not to proceed any further in the case. *Steamship Co. v. Tugman*. 106 U.S. 118, 122, 1 S.Ct. 58, 60, 27 L.Ed. 87

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(1882). The Circuit Court of Cook County acknowledged my notice of removal on two separate occasions. Once on November 14th 22 and again on April 26th 2023.

Defendant Ahern knew or should have known that the case was removed because he was served with a notice of removal. In addition, my federal complaint against Ahern states that the case had become removable. In the defendant's opposition for a temporary restraining order, Ahern does not deny that he was provided notice of removal. Instead, he argues that the removal was untimely and ineffective. However, these arguments are irrelevant because **“any proceedings in the state court after the filing of the petition and prior to a federal remand order are absolutely void, despite subsequent determination that the removal petition was ineffective.”** **South Carolina v. Moore, 447 F.2d 1067, 1073 (4th Cir.1971); see United States ex rel. Echevarria v. Silberglitt, 441 F.2d 225, 227 (2d Cir.1971)”**.

**A TEMPORARY RESTRAINING ORDER
SHOULD NOT BE NEEDED.**

My previous argument applies here. In addition, I argue that a temporary restraining order should not be necessary. This is because the statute itself removes the state court's ability to proceed with the case. The language in section 1446 is extremely clear, **“... The State court shall proceed no further unless and until the case is remanded”**. In addition, case law provides that all orders are void if they were entered after notice removal. **“any proceedings in the state court after the filing of the**

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petition and prior to a federal remand order are absolutely void”. With all things considered, the statute effectively provides the same relief as a temporary restraining. A temporary restraining order is only being requested because judge Ahern has refused to abide by the law.

THE FEDERAL CASES MENTIONED BY

THE DEFEDANTS ARE IRRELEVANT

According to Judge Ahern, the child support case and the case for college expenses are two separate cases. In fact, when I was in the circuit court, I argued that I had already defended myself against Ms. Thompsons claims and that the case was already heard. As a result, the case was in the Illinois court of Appeals. **“Judge Ahern said that I was wrong. Judge Ahern responded saying these are two separate cases” (See page 2 of attached Affidavit)**. By the same logic, if the state child support case is separate from the case for college expenses. Then that means the removal of those cases to federal court are separate as well. Thus the removal of my child support case is completely separate from the removal of my case for college expenses. The judgements in those cases are irrelevant and have nothing to do with the decision in this case.

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**THE DEFENDANTS ARE PROVIDING INCORRECT
INFORMATION AND MISQUOTING PREVIOUS JUDGMENTS**

All of my previous arguments apply here. In addition, I argue that many of the defendant's arguments are blatantly erroneous. For example, the defendants incorrectly argue ***"Finally, there are specific procedures that govern how a case must be removed from state court to federal court. Removal is done by filing a notice of removal in state court and then filing the removal in federal court, which triggers the opening of the federal court case. That procedure was not followed here."...***

Such an argument is clearly wrong. The removal process starts by filing a notice of removal in Federal court. Then filing copies of the notice of removal in state court and provide notice to all involved parties. **TITLE 28 § 1446. Procedure for removal of civil actions ("A defendant(s) desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal ... Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.").** I followed this process twice. The first time, was when I filed a complaint in federal court on or

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around November 10th 2022, and then filed copies in state court and provided notice to all parties on November 14th 2022. Afterwards I noticed that Ahern was still entering judgments, So I repeated the process on April 26 2023.

I argue that the defendants are intentionally misquoting old cases. Where they have not misquoted old cases, they have simply taken them out of context. The defendants argue ***“It is instructive to note that two different judges in this district have already held that the specific state court case at issue here is not removeable. See Martin v. Thompson et al., No. 17-cv-7541 at Docket No. 15 (“J. Chang Order”), attached as Ex. A (issuing minute entry stating that removal of the child support enforcement case is not proper under 28 U.S.C. 1443(a);”*** I argue that Chang's order involved a removal under 1443(a) not 1446. The removal that Chang presided over was for a child support case. The removal now before this court pertains to a College Contribution. Chang's order is completely irrelevant to this case and contains no instructive value. The issue here is whether a temporary restraining order should be issued against Ahern for violating section 1446. The defendants are clearly bringing up old unrelated orders and taking them out of context.

The defendants also goes on to say ***“Martin v. State of Illinois et al., No. 20-cv-4203 at Docket No. 25 (“J. Blakey Order”), attached as Ex. B In particular, Judge Blakey's ruling shows not only that Plaintiff cannot remove the underlying state court case, but that Plaintiff was fully aware that the state court case could not be removed before he filed his “notice of removal” and TRO in this matter.”...***

I argue here the defendants have misquoted Blakey's order. I even want to go so far as to say that they are just outright lying or making things up. Nothing in Blakey's order

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suggest that “**Plaintiff was fully aware that the state court case could not be removed**”. All the removal attempts I made were done completely in good faith. Besides that, Blakey’s order is irrelevant as it involved a removal of a child support case. It has nothing to do with college expense.

Overall I argue that the defendant’s are bringing up old cases in an attempt to muddy the waters. Those are separate cases and they do not provide any instructive or persuasive value to this case. I moved this case in good faith and nothing in 1446 or its case law prevents a party from attempting multiple removal attempts.

**REMOVING THE STATE CASE
WAS PROPER AND NECESSARY**

It is well known that one cannot appeal a state case in federal court. To appeal a case, one must go through the state court appeal processes. This typically means appealing to the state’s court of appeals. If one is not satisfied with a judgment from that court, they could file an application for appeal with that state’s supreme court. They would then apply to appeal to the United State’s supreme court if the state supreme court decided not to hear the case. Conversely, they could apply to appeal in the U.S supreme court, if the state supreme court heard the case but delivered an unsatisfactory ruling. The overall process could take a decade for the case to be resolved. In addition, both the state and U.S. supreme courts are highly selective. They could very well decide not to hear the case. However, the issue here is that my case would never have

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a fair chance of making it to the Illinois court of appeals. I allege that my case would die in Illinois circuit court because the defendants are trying to sabotage my case in the court of appeals. The circuit court clerks are sabotaging my case by altering and omitting documents. Judge Ahern is sabotaging my case by refusing to allow me to submit a bystander's report. As I have pointed out in my previous arguments. The Illinois court of appeals requires a record of the proceedings, and all state court documents. It places the responsibility of gathering those documents on the appellant. According to state law ("**...The appellant... has the responsibility to present a sufficiently complete record to this court, including transcripts, to support his claims of error on appeal. Foutch, 99 Ill. 2d at 391–92, 76 Ill.Dec. 823, 459 N.E.2d 958.**"). An appellant's case is effectively dead on arrival if he does not provide a complete and accurate record, and a report of the state court proceedings. "**In the absence of a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis. Any doubts which may arise from the incompleteness of the record will be resolved against the appellant. As there is no transcript of the hearing on the motion to vacate here, there is no basis for holding that the trial court abused discretion in denying the motion.**")... **Foutch v. O'BRYANT, 459 NE 2d 958 - Ill: Supreme Court 1984.** I allege that both Judge Ahern and the circuit court clerks are well aware of the state court doctrine, and they are simply trying to sabotage my case. I also allege that their actions constitute extrinsic fraud in the state court of appeals. "**Extrinsic fraud' refers to situations where `the unsuccessful party has been prevented from exhibiting fully his case. . . as by keeping him away from court . . . or where the**

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defendant never had knowledge of the suit.” Falcon v. Faulkner, 209 Ill.App.3d 1, 153 Ill.Dec. 728, 567 N.E.2d 686, 694-95 (1991). Because of the defendant’s action’s, I argue that I am not able to properly present my case to the court of appeal’s. I can go through the motions of the appeal’s processes, but my efforts will be meaningless without the state court records and a report of the proceedings.

According to the removal statute, a case not originally removable, may become removable based on court orders or motions filed in state court. **28 U.S.C. 1446 (b)(3) (3) “Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.”** I argue that there were a flurry of court orders and motions that made my case removable. Several orders were issued for accurate and complete records. However, the circuit court clerks ignored those orders and continued to provide altered and incomplete records. On October 19, 2022, the Illinois Court of Appeals denied my appeal based on lack of jurisdiction. Essentially refusing to hear my appeal until after my claims have been heard in state court. On October 31st 2022 the state court litigants filed a rule to show cause, at that point I realized that the case had become removable under 1446 and U.S.C 1983. As alleged the defendants are trying to sabotage my appeal, and I am unable to make a bystanders report. Now the defendants are initiating a proceeding in which I could be jailed. I filed the removal to prevent the perpetuation of the same violations that had previously occurred. I wanted to make sure that I could get a record of the past and

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future proceedings. Most importantly I wanted to do something to try and stop the constant constitutional violations. Such as notice and opportunity to be heard in zoom proceedings. There is no remedy adequate at law. Except for an order that would; allow me to present a bystanders report, declare that I have a right to notice and opportunity to be heard (accurate zoom info), and to prevent the defendant's from continuously sabotaging my appeal. I filed my notice of removal in federal court on November 10th 2022, which was well within the time frame to remove a case based on 1446 (b) (3). I filed a copy of that complaint in state court on November 14th 2022. Judge Ahern and the state court litigants were provided with notice of removal on that same day.

**THIS COURT MAY PROVIDE RELIEF
FROM AHERN'S ORDERS**

All of my preceding arguments apply here. I argue that I should be relieved of all of Aherns judgments after the notice of removal because those judgments are void. Ahern and the state court litigants received notice of removal, the state court acknowledge the receipt of the notice removal. According to 1446, Federal Courts gain exclusive jurisdiction of a state case once notice of removal is filed in state court and notice is given to all the parties. **"When a case is removed from state to federal court, the entire civil action, including all of the parties and their claims, is transferred to federal court and the state court is prohibited from further**

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proceeding, unless and until the case is remanded”. 28 U.S.C. § 1446(e); see also **Polyplastics, Inc. v. Transconex, Inc.** The statute does not allow state court judges to determine whether or not a removal is valid. This court can review state court orders. **"a federal court is free to reconsider a state court order and to treat the order as it would any interlocutory order it might itself have entered"** **NOC PROPERTIES, LLC v. GREAT SMOKY MOUNTAINS RAILROAD, LLC, 2021...** **"A prior state court order in essence is federalized when the action is removed to federal court, although the order `remains subject to reconsideration just as it had been prior to removal."** **FARMLANDS PARTNERS INC. v. FORTUNAE**

This court may relieve parties from void orders. **Federal Rule of Civil procedure 60 (b) “GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR PROCEEDING. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding...”** This court should relieve me from Aherns orders because they were issued after the state acknowledged the removal and after he and the state court litigants received notice of the removal.

ALL OF THE DEFENDANTS

ARGUMENTS ARE IRRELEVANT

All of my preceding arguments apply here. In addition I argue that all of the defendants arguments are irrelevant. A temporary restraining order should not be necessary. However, the defendants are trying to determine their own jurisdiction.

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Which is prohibited by statute. A temporary restraining order is only being requested to order Ahern to adhere to the federal statute. The defendants are now essentially making remand arguments. I argue that it is not proper for a state court judge to come to federal court to make remand arguments. For one, I believe it would be an indication of bias. Second, this is the job of the state court litigants. Most importantly Ahern was prohibited from issuing orders after the notice of removal. He does not now gain the right to come to federal court to make arguments to justify why he violated the statute.

CONCLUSION

All of the defendant's arguments are irrelevant. Judge Ahern clearly violated the federal removal statute. He did so by essentially determining that my removal was invalid. However, the removal statute clearly deprives Ahern of any authority to gauge the strength of my removal. Even if my removal is invalid, Ahern would still lack jurisdiction until the case is remanded. Thus all, his judgments issued after the removal are void. A temporary restraining order is being requested so that Ahern may respect the federal statute. This court has the authority to provide relief from Aherns orders because those orders were entered after removal, and they are already void.

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Wherefor I pray:

1. That this court issues a temporary restraining order.
2. That I be provided relief from Ahern orders during the period of removal.
3. Any remedy that this court can provide.

Date of signing: *11/22/23*

David Martin

5352 S. Princeton, Chicago IL 60649

Email: martinvtompson@gmail.com

Signature of Plaintiff

David Martin

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, DOMESTIC RELATIONS DIVISION**

**MOTION TO CERTIFY BYSTANDERS REPORT
ILLINOIS SUPREME COURT RULE 323(C) & (D)**

AFFIDAVIT

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, DOMESTIC RELATIONS DIVISION

AFFIDAVIT OF PROCEEDINGS
ON MARCH 10, 2022

Plaintiff(s))	
Arnell Frances Thompson)	
IL Dept of Healthcare and Family Services)	
People of the State of Illinois, ex. Rel.)	
vs.)	Case No. 02D056455
Defendant)	
David Terrence Martin)	
In Propria Persona)	

AFFIDAVIT OF PROCEEDINGS
ON MARCH 10, 2022

I, David Martin, first duly sworn upon depose and states that I am over the age of 18, suffer from no disability and if call as a witness, could competently testify on my own personal knowledge, as follows:

On March 10th, 2022, at 2:00 PM, I logged in to zoom and appeared in Judge Gregory Ahern's room at: Meeting ID: 836 1836 1978 Password: 527306. After logging in I was placed into a waiting queue. As the proceeding was not scheduled to start until 2:15 PM. Around 2:19 PM, I became worried that I would not be let into the hearing. As a result, I called Judge Ahern's clerk at 312-603-4808. No one picked up, so I began

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COUNTY DEPARTMENT, DOMESTIC RELATIONS DIVISION**

**AFFIDAVIT OF PROCEEDINGS
ON MARCH 10, 2022**

leaving a voice mail. Getting close to the end of my voice mail, I noticed that it appeared that I was being let into the room. I quickly finished my voice mail and hung up. After I hung up the phone, It became apparent to me that I was simply in another zoom waiting room. I waited a few minutes, then I called Aherns clerk again to see if I could get some one on the phone. I ended up starting another voice mail. Around 2:30 PM I was let into the room where Judge Ahern and Attorney Spencer was present. I instantly heard Judge Ahern say something to the effect "Oh there he is". Attorney Spencer at some point said that his client Ms. Thompson was trying to get into the room. After some time, Ms. Thompson entered the room. I informed the court that I was appearing only to correct the court's record and to object to the courts jurisdiction to hear a claim for contribution of college expenses. I argued that this case is currently in Illinois Court of Appeals. Then, I informed Judge Ahern that I was in his court room the day he entered the default judgment, but I was held in a zoom back room. Judge Ahern responded saying that he lets everyone enter his zoom once he starts court. I then argued that I already defended myself against Ms. Thompson claims and that this case was already heard. As a result of that hearing, I filed a notice of appeal and a docketing statement. Arguing, that the Court of Appeals has jurisdiction over this case. Judge Ahern responded saying that these are separate cases. I insisted saying that they are the same case, and that res judicatta should apply to Ms. Thompson claim for contribution of college expenses. Judge Ahern said that I was wrong. Judge Ahern then asked when was there a hearing. To which I said please give me a second, let me get that

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information... I then replied that the hearing was on May 25th 2021. Judge Ahern then asked when did I appeal, I responded saying that I appealed the judgment on June 7th 2021. Attorney Spencer responded saying that he never received a copy of the appeal. I then stated that both the appeal and docketing statement was sent to MS. Thompson at her home address. Attorney Spencer was not apart of the case when I appealed. I explained that Attorney Spencer filed the motion for college expenses after this case was already in appeals court. Judge Ahern then told us to wait for a second. He then stepped away from the zoom session. After about 10 minutes, he returned, he firmly stated that the cases were separate. He then read Judge Julie Aimen's last judgement which stated that I failed to appear. He then told me to raise my right hand to be sworn in. After swearing in, he asked if I had a relationship with my son. I responded saying that I was only here to correct the court record and to object to jurisdiction. I told him that I was not participating in the hearing of Ms. Thompson's claim for contribution of college expenses. Judge Ahern said that's fine, you don't have to participate if you don't want to. From that point on, I simply observed the proceeding... In that proceeding, the plaintiffs did not present any proof of actual cost, such as tuition receipts, rental leases, or rental receipts. Instead, Attorney spencer spoke about the estimated cost of attending college. Ms. Thompson said that Emanuel has his own apartment which she pays for. The cost of that apartment is \$900 a month. Judge Ahern then asked if Emmanuel was working. Ms. Thompson said he had two jobs, but those jobs did not work out... At some point Judge Ahern said the total cost could not exceed \$37k a year. Attorney

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spencer said the total cost was about \$25k a year. Judge Ahern then granted Ms. Thompson an order for \$25K, split between both Me and Ms. Thompson after credit is given for student loans, Pell Grant's, etc. After granting the order, it seemed as if Judge Ahern was going to end the zoom call. Fearing this, I quickly interjected saying what about my motions. Judge Ahern respond saying oh, I read your proposed order. He then said that there was nothing in the preposed order that seemed unreasonable. He then checked with Attorney Spencer to see if there was any objections. Attorney Spencer Acknowledged that there were no objections. At that point Judge Ahern granted my order to correct the court record and the zoom session ended. I received copies of the order sometime after the session ended. I felt uncomfortable after inspecting the order. As it appears that it may mislead the reader to believe that I participated in the proceeding. I emailed Judge Ahern and Attorney spencer to request that the order be modified to show that I did not participate in the proceeding for college expenses beyond my objection. I never received a response from either Judge Ahern or Attorney spencer. Given the chain of events, I want to make it clear that I did not participate in the proceeding for contribution of college expenses. I strongly believed that the court did not have jurisdiction to hear Ms. Thompson's claims for college expenses.

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AFFIDAVIT OF PROCEEDINGS
ON MARCH 10, 2022

Under penalties as provided by law pursuant to 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to the matters therein stated, to be on information and belief and as to such the undersigned certifies as aforesaid believes the same as true.

Dated: 3/28/22

Respectfully submitted,



David Terrence Martin

5352 S. Princeton

Chicago, IL 60649

SIGNATURE: *David Martin*

ON THIS THE
DAY OF
NOTARY

28th
March
2022

