

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1649

GREAT BAY CONDOMINIUM OWNERS ASSOCIATION, INC.,

Plaintiff - Appellee,

v.

6101 GARDENIA LLC, a Maryland Limited Liability Company,

Defendant,

v.

LATONYA M. BROOKS,

Movant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, Senior District Judge. (8:10-cv-00658-PJM)

Submitted: January 26, 2011 Decided: February 10, 2011

Before DUNCAN, DAVIS, and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

LaTonya M. Brooks, Appellant Pro Se. David Michael Burns, SEYFARTH SHAW, LLP, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

LaTonya Brooks seeks to appeal the district court's order remanding this case to the Superior Court of the U.S. Virgin Islands, from which it was removed. We 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) (2006). The Supreme Court has instructed that "§ 1447(d) must be read in pari materia with [28 U.S.C.] § 1447(c) [(2006)], 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) bars . . . review of a district court's remand order only if the order was issued under § 1447(c) and invoked the grounds specified therein, . . . either (1) that the district court granted a timely filed motion raising a defect in removal procedure or (2) that it noticed a lack of subject matter jurisdiction.

Ellenburg v. Spartan Motors Chassis, Inc., 519 F.3d 192, 196 (4th Cir. 2008) (internal quotation marks and citations 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).

In this case, the district court remanded the action because it lacked subject matter jurisdiction. Under the cited authorities, we are without jurisdiction to review the remand order, and we 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