

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, <i>ex rel.</i> ,)	
MARCO WHITE, MARK MITCHELL,)	
and LESLIE LAKIND,)	
)	Case No. 22-cv-284-RB-JFR
Plaintiffs,)	
)	
)	
v.)	
)	
COUY GRIFFIN,)	
)	
Defendant.)	

**GRIFFIN’S OPPOSITION TO PLAINTIFFS’ REQUEST FOR A STATUS
CONFERENCE**

Griffin, through his counsel, opposes Plaintiffs’ request for a status conference, ECF No. 17, for the following reasons.

On April 17, Griffin filed his notice of removal in this Court. ECF No. 1. The same day, he filed a motion to transfer this case to the U.S. District Court for the District of Columbia, pursuant to 28 U.S.C. § 1404(a). ECF No. 2. That district is where Griffin’s criminal trial took place between March 21-22. *United States v. Couy Griffin*, 21-cr-92-TNM (D.D.C. 2021). Plaintiffs’ *quo warranto* complaint in this matter turns on the same facts that were litigated in the District of Columbia case.

On April 18, the Court entered a *sua sponte* order finding good cause to delay entering a scheduling order in light of Griffin’s transfer motion. ECF No. 7.

On April 20, Plaintiffs filed a motion to remand, ECF No. 10, to which Griffin filed a memorandum in opposition on April 24. ECF No. 15.

Today, Plaintiffs request that the Court hold a status conference “to address the sequence in which the Court will consider the matters pending before it and the nature of the state law, and its prescribed timing, under which this matter arises.” ECF No. 17. However, a status conference is not needed to address the matters that Plaintiffs wish to clarify. Plaintiffs have already indicated in briefing their belief that the Court should address their motion to remand before turning to Griffin’s motion to transfer venue. ECF No. 10, p. 2. n. 10. The Court is therefore on notice of Plaintiffs’ position regarding the “sequence in which the Court will consider the matters pending before it.” ECF No. 17.

If held in the courthouse rather than through a telephonic conference or video teleconferencing, a status conference will also impose significant costs on Griffin, as Plaintiffs likely know. Griffin’s counsel resides in New York. Travel to the district solely for the purpose of a status conference to discuss a matter that can be handled through briefing would be prohibitively expensive.

Plaintiffs refer the Court to NMSA 1978, § 44-3-2, which they say “requires that the matter be ‘summarily tried as soon as the issues are made up.’” ECF No. 17 (quoting § 44-3-2). That statute does not impose any deadline on this Court. After a party files a notice of removal in federal court and files a copy of the notice with the clerk of the State court, “the State court shall proceed no further unless and until the case is remanded.” 28 U.S.C. § 1446(d). The State court proceeding is frozen. Therefore, even if the “issues” were “made up” in Plaintiffs’ state court proceeding, which they are not, the *quo warranto* statute would not impose any “mandatory timelines” on this Court in connection with the pending motions in this case. *E.g.*, *Boutrup v. Washburn*, 2009 U.S. Dist. LEXIS 119474, at *6 (E.D. Cal. Nov. 3, 2009) (“Under

the Supremacy Clause of the Constitution, [§ 1446(d)] . . . take[s] precedence over state law which might have permitted [conflicting] scheduling.”).

Accordingly, a status conference is not necessary. If the Court does schedule a conference, Griffin requests that his counsel be permitted to participate by telephone or video teleconferencing.

Dated: April 27, 2022

Respectfully submitted,

/s/ Nicholas D. Smith
Nicholas D. Smith (Va. Bar No. 79745)
7 East 20th Street
New York, NY 10003
Phone: (917) 902-3869

Certificate of Service

I hereby certify that on the 27th day of April, 2022, I filed the foregoing filing with the Clerk of Court using the CM/ECF system, and counsel of record were served by electronic means.

/s/ Nicholas D. Smith
Nicholas D. Smith (Va. Bar No. 79745)
7 East 20th Street
New York, NY 10003
Phone: (917) 902-3869