

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

February 7, 2017

Elisabeth A. Shumaker
Clerk of Court

IONEL SAMUEL DUMITRASCU,

Petitioner - Appellee,

v.

CRISTINA MIRELA DUMITRASCU,

Respondent - Appellant.

No. 17-5006
(D.C. No. 4:15-CV-00561-JED-FHM)
(N.D. Okla.)

ORDER

Before **HARTZ**, **MATHESON**, and **BACHARACH**, Circuit Judges.

We raise *sua sponte* the question of whether this court has jurisdiction to consider an appeal of the district court's January 13, 2017 order. The district court remanded the case to the state court in which it originated after determining that Appellant Cristina Mirela Dumitrascu did not timely remove the case. The district court also noted that Ms. Dumitrascu did not sufficiently present any argument for the district court's exercise of subject matter jurisdiction over the action.

An order remanding a case to the state court from which it was removed is not appealable when the remand is based on a defect in the removal procedure or on a lack of subject matter jurisdiction. 28 U.S.C. § 1447(d); *see also Miller v. Lambeth*, 443 F.3d

757 (10th Cir. 2006) (dismissing an appeal of a district court's remand order when the district court remanded the action after determining that removal was untimely).

APPEAL DISMISSED.

Entered for the Court

ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Lindy Lucero Schaible", written in a cursive style.

by: Lindy Lucero Schaible
Counsel to the Clerk