

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Raymond P. Moore**

Civil Action No. 20-cv-03412-RM-NRN

VINCENT DAMON DITIRRO,

Plaintiff,

v.

MATTHEW J. SANDO,
CALEB SIMON,
COLORADO STATE PATROL,
COMMERCE CITY POLICE DEPARTMENT,
ADAMS COUNTY SHERIFF'S DEPARTMENT,
DOE DEFENDANTS INDIVIDUAL 1-10, and
DOE DEFENDANTS AGENCY OF THE COLORADO STATE OR LOCAL
GOVERNMENTS 11-20,

Defendants.

ORDER

This matter is before the Court on Plaintiff's Motion to Remand (ECF No. 17), requesting that the Court remand this action to state court pursuant to 28 U.S.C. § 1447(c). Defendant Commerce City Police Department removed this action from the Adams County District Court, State of Colorado, and has filed a response to Plaintiff's motion. (ECF No. 28.) Plaintiff has filed a reply (ECF No. 29), and the matter is ripe for review. For the reasons below, the Court grants Plaintiff's motion.

This action stems from a traffic stop. In the original complaint, Plaintiff alleged various violations of his rights under the Eighth and Fourteenth Amendments and brought claims under

42 U.S.C. § 1983 and Colorado state law. After removal, Plaintiff amended the complaint by dropping the § 1983 claims, leaving only state law claims in the case. At the same time, he filed his motion to remand, arguing that in the absence of any federal claims, this Court lacks subject matter jurisdiction. In response, Defendant Commerce City Police Department contends that Plaintiff “continues to allege substantive federal claims” that “place Defendants on notice of federal *Monell* claims.” (ECF No. 28 at 3, 4.) But Plaintiff’s claims are clearly and expressly based on Colo. Rev. Stat. § 13-21-131, and the Court finds Defendant’s attempt to construe them as federal claims bizarre and inapt. Defendant has failed to meet its burden of establishing subject matter jurisdiction. *See Montoya v. Chao*, 296 F.3d 952, 955 (10th Cir. 2002).

Accordingly, this case is REMANDED to the Adams County District Court, State of Colorado, where it was originally filed as case number 2020CV31045.

DATED this 4th day of January, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Raymond P. Moore', is written over a horizontal line.

RAYMOND P. MOORE
United States District Judge