

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

STATE OF NEVADA,

Plaintiff - Appellee,

v.

Mr. CLAYTON-M. BERNARD-EX.,

Defendant - Appellant.

No. 25-3420

D.C. No. 2:24-cv-02114-JAD-DJA

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Jennifer A. Dorsey, District Judge, Presiding

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

Mr. Clayton-M. Bernard-Ex. appeals pro se from the district court's order remanding to state court a criminal case against Bernard-Ex. We have jurisdiction under 28 U.S.C. § 1447(d). We review de novo a district court's decision to remand a removed case and its determination that it lacks subject matter

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction. *Corona-Contreras v. Gruel*, 857 F.3d 1025, 1028 (9th Cir. 2017). We affirm.

The district court properly remanded this criminal case to state court for lack of subject matter jurisdiction because Bernard-Ex. failed to show a basis for civil rights jurisdiction. *See* 28 U.S.C. § 1443(1) (to qualify for removal of a criminal prosecution from state court to federal court, a defendant must demonstrate a denial of equal civil rights); *Patel v. Del Taco, Inc.*, 446 F.3d 996, 998-99 (9th Cir. 2006) (stating the Supreme Court’s two-part test for removal under § 1443(1)), abrogated on other grounds by *BP P.L.C. v. Mayor & City Council of Balt.*, 593 U.S. 230 (2021); *see also* 28 U.S.C. § 1455(b)(4) (“If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.”).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

The motion (Docket Entry No. 6) to amend the case caption is granted. All other pending motions and requests are denied.

AFFIRMED.