

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CONSTANCE MILLS,
k/k/a Constance Mills Haeseley
Plaintiff (Petitioner, former Wife)

v

State Civil Case No. 95-DR-10-4755

DALE WAYNE MILLS,
Defendant, pro se (Respondent, former husband)

NOTICE OF REMOVAL

**SOUTH CAROLINA STATUTES PERMANENT ALIMONY SECTIONS
(§ 20-3-120, 130 et al) IMPERMISSIBLY INFRINGE
THE FEDERAL RIGHT TO PRIVACY,
INTER ALIA**

“...it is clear that among the decisions that an individual may make without unjustified government interference are personal decisions relating to marriage...” Carey v. Population Serv. Int’l., 431 U.S. 678, 684-685 (1977)

Dale Wayne Mills, pro se, hereby gives notice of removal of the civil action styled Constance D. Mills (now known as Constance Mills Haeseley) v. Dale Wayne Mills, Case No. 95-DR-10-4755, from the Ninth Judicial Circuit Court of South Carolina, Charleston County South Carolina, to this Court pursuant to 42 U.S.C.1983, 28 U.S.C. §§ 1331, 1441, 1443, and 1446.

The parties personal decision relating to their marriage, i.e. to divorce, has metamorphosized into a constitutional and civil rights case.

As grounds for removal, Dale Wayne Mills states,

1. Constance Mills Haeseley, former wife, while she and her husband were residents of Indiana filed a Dissolution of Marriage Proceeding pursuant to South Carolina statutes Title 20 provisions in the Ninth Judicial Circuit Court of South Carolina in 1996.
2. A Final Judgment of Dissolution of Marriage was entered in the above action by the Ninth Judicial Circuit Family Court of South Carolina on December 19, 1996.
3. A Rule To Show Cause hearing and Order for Alimony To Be Paid Through Court for arrearages of alimony was voluntarily entered by the Petitioner and honored by the Honorable Judge Garfinkel against Dale Wayne Mills on April 4, 2004.
4. This Court has subject –matter jurisdiction over Dale Wayne Mills’s Claims pursuant to 42 U.S.C. 1983 (a U.S. Constitution 13th and 14th Amendment violation), 28 U.S.C. §§1331, 1441 (a) (b), and 1443 in that the claim involves a federal question and a subsequent violation of the Liberty Interest and the fundamental Federal Constitution Rights of Dale Wayne Mills, Right to Privacy inter alia, which entitles him to jurisdiction Court also under 42 U.S.C. 1983.
5. Dale Wayne Mills is now a resident of Clark County, Indiana and was a resident of Floyd County, Indiana when lawsuit was filed in the Ninth Judicial Circuit Court of Charleston County, South Carolina.
6. Constance Mills Haeseley is now a resident of Charleston County South Carolina. She was a resident Floyd County, Indiana when she filed this lawsuit in the Ninth Judicial Circuit Court of Charleston, South Carolina.
7. The Ninth Judicial Circuit Family Court of South Carolina and The Honorable F. P. Segars-Andrews, in her personal capacity as Judge not acting as a neutral adjudicator but in a ministerial capacity as enforcer of the “Divorce” statute alimony section, exercised

their statutorily granted enforcement authority of S.C. Chapter 3 in Charleston County South Carolina against the Defendant, Dale Wayne Mills December 1, 2004.

8. All incidents associated with this lawsuit have taken place in Charleston County South Carolina.

9. An extrajurisdictional Contempt Order has been entered by the Honorable F.P. Segars-Andrews and possible commitment order (arrest bench warrant) against Dale Wayne Mills in this lawsuit over the application of the permanent alimony sections of S.C. § 20-3-130 against him.

10. The voluntary request by Constance Mills Haeseley for a contempt order and the Honorable Judge F.P. Segar-Andrews's entering a contempt order, without evidence of ability to purge and without proper notice, against Dale Wayne Mills over § 20-3-120 and 20-3-130 alimony sections is timely now under 42 U.S.C. 1983 because of his deprivation of civil rights, and the irreparable harm to him if removal is denied at this stage without a declaratory judgment on the impermissible infringement of South Carolina Statutes permanent alimony sections §20-3-130 on U.S. Constitution 13th Amendment and 14th Amendment, Substantive Due Process Clause Liberty interest and Right to Privacy, inter alia, pursuant to 42 U.S.C. 1983.

11. The exercise of enforcement authority statutorily granted by S.C. Statutes Title 20 and exercised by Third Party Defendant The Honorable F. P. Segars-Andrews, in her personal and official capacity, creates this addition claim under 42 U.S.C. 1983 originally not present at the time of filing of the Dissolution of Marriage lawsuit in the Ninth Judicial Circuit Court.

12. Injunctive relief is requested.

13. Dale Mills will suffer irreparable harm if the contempt order and commitment order are executed.

13. Removal is for prospective relief, i.e. injunctive relief and declaratory judgment relief purposes under 42 U.S.C. 1983 on the federal question of whether S.C. § 20-3-120, 130 et al permanent alimony provisions impermissibly infringe U.S. Constitution 13th Amendment and 14th Amendment Due Process Liberty interest, Right to Privacy, Right to Property and Equal protection.

14. Pursuant to 28 U.S.C. § 125 (2) and 1441 (a), The United States District Court of South Carolina, Southern District is the federal court for the district and division embracing the place where the state court action is pending.

15. Pursuant to 28 U.S.C. § 1446 (d), all adverse parties are being provided with written notice of the filing of this notice of removal.

16. Pursuant to 28 U.S.C. 1446 (d), a copy of this notice of removal is being filed with the South Carolina Attorney General.

WHEREFORE, Dale Wayne Mills hereby removes this action, now pending in the Ninth Judicial Circuit Family Court of South Carolina, to this Court, pursuant to 42 U.S.C. 1983, 28 U.S.C.§§ 1131, 1441, and 1443,1446 and the authority of 28 U.S.C. 1221.

Respectfully submitted,

Dale Wayne Mills, pro se
206 Summit Parkway
Borden, IN. 47106
Telephone: 812-246-0651
Fax: 812-246-0652
Email: terratrq@aol.com

DATED this 11th day of December, 2004

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing motion has been served via U.S. mail this 11th day of December, 2004 to

Clerk of the Ninth Judicial Circuit Court of South Carolina
Judicial Center
100 Broad Street, Suite 106
Charleston, S.C. 29401

The Honorable Henry McMaster
South Carolina Attorney General
P.O. Box 11549,
Columbia, S.C. 29211,

Steven A. James, Esq.
Attorney for Constance Mills Haeseley
92 Folly Road - Suite 9
Charleston, S.C. 29412

Dale Wayne Mills, pro se

206 Summit Parkway
Borden, IN. 47106
Telephone: 812-246-0651
Fax: 812-246-0652
Email: terratrq@aol.com