

UNITED STATES COURT OF APPEALS December 23, 2009
FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

PEOPLE OF THE STATE OF
COLORADO,

Plaintiff - Appellee,

v.

ROYCE EARL LOCK,

Defendant - Appellant.

No. 09-1525
(D.C. No. 1:08-CR-00472-REB-1)

ORDER

Before **BRISCOE, O'BRIEN** and **GORSUCH**, Circuit Judges.

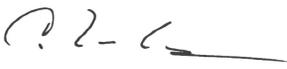
This court lacks jurisdiction over this appeal.

The appellant, Mr. Lock, is appealing from the district court's summary remand of his state criminal case to state court. The district court determined that it could ascertain no basis for removal to federal court. Remands that are predicated upon lack of subject matter jurisdiction or a defect in the removal procedure are not appealable. *See* 28 U.S.C. § 1447 (d); *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 712 (1996). *See also Powerex Corp v. Reliant Energy Services, Inc.*, 551 U.S. 224, 234 (2007) ("We hold that when, as here, the District Court relied upon a ground that is colorably characterized as subject-

matter jurisdiction, appellate review is barred by § 1447 (d).”) The exceptions found in 28 U.S.C. § 1443 are inapplicable here. Under § 1443 (1), the rights protected must arise under federal laws which specifically protect civil rights and are cast in terms of racial equality. *Miller v. Lambeth*, 443 F. 3d 757, 761-62 (10th Cir. 2006). Mr. Lock’s allegations do not meet these requirements. The exception provided by § 1443 (2) is also inapplicable because Mr. Lock does not allege that “he has been a federal officer or agent, [or] that he has been acting with or for one.” *Miller* at 761.

APPEAL DISMISSED.

Entered for the Court
ELISABETH SHUMAKER, Clerk of Court

by: 
Christine Van Coney
Counsel to the Clerk