

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

WESLEY EUGENE BAKER,	*	
Plaintiff,	*	
v.	*	Civil Action No.
MARY ANN SAAR, SECRETARY, et al.,	*	
Defendants.	*	

**NOTICE OF REMOVAL**

Defendants Mary Ann Saar, Secretary of the Maryland Department of Public Safety and Correctional Services, Frank C. Sizer, Jr., Commissioner of the Maryland Division of Correction, Lehrman Dotson, Warden of the Maryland Correctional Adjustment Center, and Gary Hornbaker, Warden of the Metropolitan Transition Center, by their attorneys J. Joseph Curran, Jr., Attorney General of Maryland, and Scott S. Oakley, Assistant Attorney General, hereby give notice of the removal of the case entitled *Wesley Eugene Baker v. Mary Ann Saar, et al.*, Case No. 24-C-05-010379 (Circuit Court for Baltimore City) to the United States District Court for the District of Maryland, pursuant to 28 U.S.C. §§1441 and 1446. In support of their Notice of Removal, Defendants state the following:

1. This civil action is brought by Wesley Eugene Baker, a Maryland inmate under sentence of death, who is scheduled to be executed during the five-day period beginning 12:01 a.m. Monday, December 5, 2005. Plaintiff Baker brings this action against certain senior officials of the Maryland Department of Public Safety and Correctional Services and against “unknown executioners.”

2. This action was commenced when it was filed in the Circuit Court for Baltimore City on Monday, November 28, 2005. This action is currently pending in that court.

3. All Defendants in this action are represented by the Office of the Maryland Attorney General and they do not object to the removal of this action to this Court.

4. No further proceedings, aside from informal preliminary scheduling matters, have taken place in the Circuit Court for Baltimore City in this action.

5. Plaintiff's claims arise from his scheduled execution. Plaintiff claims that the procedures to be utilized by Defendants in the administration of the "lethal injection" will violate his rights under the Eighth and Fourteenth Amendments of the United States Constitution.

6. Plaintiff also claims that the lethal injection procedures will violate his rights under the Maryland Declaration of Rights, under Md. Code Ann. Corr. Serv. §3-905, "Method of execution," and under Md. Code Ann. State Gov't §§10-101 et seq. (the State Administrative Procedure Act or "SAPA").

7. The removing parties are all Defendants in this action.

8. This Court has original jurisdiction over this action under 28 U.S.C. §§1331 and 1343(a)(3). This action is therefore subject to removal to this Court pursuant to 28 U.S.C. §§1441(b) and (c). This Court has supplemental jurisdiction of the state law claims pursuant to 28 U.S.C. §1367(a).

9. Pursuant to Local Rule 103.5, copies of all papers served on Defendants to date are attached hereto as Exhibits 1-6.

10. This notice is being filed with this Court within 30 days after service of original papers on the removing parties in this action.

11. By removing this action to this Court, Defendants are not consenting in any way to any waiver of sovereign immunity under the Eleventh Amendment of the United States

Constitution. The undersigned is not authorized under Maryland law to waive the immunity of the State of Maryland under the Eleventh Amendment of the United States Constitution.

Respectfully submitted,

**J. JOSEPH CURRAN, JR.**  
Attorney General of Maryland

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/s/  
SCOTT S. OAKLEY  
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Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29th day of November, 2005, a copy of the foregoing Notice of Removal was mailed, first class postage prepaid, to Michael E. Lawlor, Esq., Lawlor & Englert, LLC, 6305 Ivy Lane, Suite 704, Greenbelt, Maryland 20770.

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/s/  
SCOTT S. OAKLEY