

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-1300

JEAN COULTER, Appellant
v.

GERRI VOLCHKO PAULISICK; JOSEPH R.
PAULISICK

On Appeal from the United States District Court for
the Western District of Pennsylvania (D.C. Civil
Action No. 2:15-cv-00937) District Judge: Honorable
Joy Flowers Conti

SUR PETITION FOR REHEARING

BEFORE: SMITH, Chief Judge, and AMBRO,
CHAGARES, JORDAN, SHWARTZ, KRAUSE,
RESTREPO, BIBAS, PORTER, MATEY, and
GREENBERG, Circuit Judges

The petition for rehearing filed by appellant,
Jean Coulter, in the above captioned matter having
been submitted to the judges who participated in the
decision of this Court and to all the other available
circuit judges of the Court in regular active service,
and no judge who concurred in the decision having
asked for rehearing, and a majority of the circuit
judges of the circuit in regular active service who are
not disqualified not having voted for rehearing by the
court en banc, the petition for rehearing is denied.
Judge Greenberg's vote is limited to denying
rehearing before the original panel.

BY THE COURT:

1a.

s/ Morton I. Greenberg
Circuit Judge

DATED: July 23, 2019

Lmr/cc: Jean Coulter
Rhonda J. Sudina

JEAN COULTER, Appellant,

v.

GERRI VOLCHKO PAULISICK; JOSEPH R.

PAULISICK.

No. 19-1300.

United States Court of Appeals, Third Circuit.

Submitted Pursuant to Third Circuit LAR 34.1(a)

June 26, 2019.

Opinion filed: June 28, 2019.

On Appeal from the United States District Court for
the Western District of Pennsylvania, (D.C. Civil
Action No. 2-15-cv-00937), District Judge: Honorable
Joy Flowers Conti.

Before: CHAGARES, BIBAS, and GREENBERG,
Circuit Judges.

NOT PRECEDENTIAL

OPINION[*]

PER CURIAM.

Jean Coulter appeals the District Court's
dismissal of her action for lack of subject matter
jurisdiction. We will affirm the District Court's
judgment for the following reasons.

On July 20, 2015, Coulter filed this suit against
Appellees Gerri Volchko Paulisick and Joseph R.
Paulisick ("the Paulisicks"), alleging that a fallen
tree branch from the Paulisicks' property caused

damage to Coulter's adjacent property located in Butler, Pennsylvania. Coulter asserted that she was a New Jersey citizen and invoked jurisdiction under 28 U.S.C. § 1332 (diversity of citizenship).^[1] Seven days later, on July 27, 2015, Coulter filed a separate suit against her brother, James Coulter, in the Western District of Pennsylvania ("Coulter v. Coulter"), alleging various causes of action relating to the same piece of property in Butler, Pennsylvania. As she did in the current case, Coulter asserted diversity of citizenship as the basis for the court's jurisdiction. District Judge Bissoon initially found Coulter to have established her domicile in Pennsylvania,^[2] and issued an order to show cause, directing Coulter to demonstrate that she had actually established a new domicile in New Jersey. After reviewing Coulter's response, Judge Bissoon ultimately concluded that Coulter had not met her burden to show that she had, in fact, established a new domicile in New Jersey, and dismissed the case for lack of subject matter jurisdiction. Coulter appealed, and this Court affirmed Judge Bissoon's determination. See Coulter, 715 F. App'x at 160.

Meanwhile, in the current case, the Paulisicks eventually filed a motion to dismiss and strike this action. The District Court, in considering the Paulisicks' motion and several other motions filed by Coulter, first addressed whether it had subject matter jurisdiction to hear the case. The District Court looked to Judge Bissoon's finding that Coulter was still a citizen of Pennsylvania on July 27, 2015, and noted this Court's affirmation of that determination. The District Court then concluded that the doctrine of issue preclusion bound the court

to that determination, and dismissed the case for lack of subject matter jurisdiction. Coulter filed a motion seeking reconsideration, which included several attachments that she purported proved her domicile was New Jersey. The District Court found that Coulter provided no new evidence of her citizenship and denied the motion. Coulter timely appealed.

We have appellate jurisdiction over the District Court's orders, dismissing the action and denying reconsideration, pursuant to 28 U.S.C. § 1291. A district court's determination regarding domicile for purposes of subject matter jurisdiction is a mixed question of fact and law. *McCann v. Newman Irrevocable Tr.*, 458 F.3d 281, 286 (3d Cir. 2006). Accordingly, we review the court's factual determinations for clear error, and the court's application of legal principles and conclusions of law *de novo*. *Washington v. Hovensa LLC*, 652 F.3d 340, 341 (3d Cir. 2011). As to the clear error standard, "our sole function is to review the record to determine whether the findings of the District Court were clearly erroneous, i.e., whether we are left with a definite and firm conviction that a mistake has been committed." *McCann*, 458 F.3d at 286 (internal quotation marks omitted).

[sic]At issue is whether Coulter was domiciled in New Jersey at the time she filed her action on July 20, 2015. On appeal, Coulter essentially challenges the District Court's determination on a legal basis and a factual basis. She argues that the District Court's use of the doctrine of issue preclusion[3] as a basis for concluding she was a Pennsylvania resident was legal error. She argues that the District Court's reliance on Judge Bissoon's determination in Coulter

v. Coulter was improper because that case was filed after the instant case, and the determination of domicile for purposes of subject matter jurisdiction must occur on the date the action was filed. See Washington, 652 F.3d at 344 (noting that, in deciding whether diversity jurisdiction exists, a court must determine the parties' citizenship based on relevant facts at the time the complaint was filed). Thus, because her domicile could have conceivably changed in that time-span of a week, she maintains that the District Court committed an error of law by using the doctrine of issue preclusion. Coulter's related factual challenge essentially argues that the facts determining her domicile changed between the filing of her action against the Paulisicks on July 20, and the following week when she filed her action against her brother on July 27.

To the extent that Coulter avers that the District Court committed a legal error by using the doctrine of issue preclusion as a basis for determining subject matter jurisdiction, she is mistaken. See Park Lake Res. LLC v. U.S. Dep't of Agric., 378 F.3d 1132, 1136 (10th Cir. 2004) (noting "dismissals for lack of jurisdiction preclude relitigation of the issues determined in ruling on the jurisdiction question" (internal quotation marks omitted)). Furthermore, Coulter misunderstands the District Court's use of issue preclusion in this case. As we noted on appeal in Coulter v. Coulter, Judge Bissoon took judicial notice of Coulter's residence in Pennsylvania based on Coulter's own representations in prior litigation beginning in 2012. See Coulter, 715 F. App'x at 160. This, as we further noted, gave rise to a rebuttable presumption of Coulter's domicile as being Pennsylvania. See *id.*; see also McCann, 458 F.3d at

286-87 (noting "[a] domicile once acquired is presumed to continue until it is shown to have been changed" and, consequently, this principle "gives rise to a presumption favoring an established domicile over a new one" (internal quotation marks omitted)). Ultimately, we agreed that Coulter failed to meet her burden in proving her domicile had changed in the intervening time period between her litigation in 2012 and the filing of her action on July 27, 2015. See Coulter, 715 F. App'x at 160-61.

Here, the District Court reasoned that Coulter's domicile was established as Pennsylvania in 2012 and remained Pennsylvania through July 27, 2015—as Judge Bissoon found in Coulter v. Coulter after full litigation of the issue. See Witkowski v. Welch, 173 F.3d 192, 198-99 (3d Cir. 1999) ("Issue preclusion forecloses relitigation in a later action [] of an issue of fact or law which was actually litigated and which was necessary to the original judgment." (emphasis added) (internal quotation marks omitted)). Consequently, because Coulter's action in the current case was filed on July 20, 2015, the District Court properly recognized the preclusive effect of Judge Bissoon's findings and dismissed for lack of subject matter jurisdiction. See Okoro v. Bohman, 164 F.3d 1059, 1063 (7th Cir. 1999) (noting "a jurisdictional dismissal precludes only the relitigation of the ground of that dismissal, and thus has collateral estoppel (issue preclusion) effect" on that ground of dismissal (internal citations omitted)). In short, the issue of Coulter's domicile was previously litigated and found to be Pennsylvania from 2012 to July 27, 2015, and, therefore, she is now precluded from relitigating that issue in the current case.

Even if we were to set aside the doctrine of issue preclusion, we cannot say that the District Court's factual determinations were clearly erroneous. In Coulter's motion for reconsideration, she did not produce evidence sufficient to meet her burden of proof and overcome the presumption of her Pennsylvania domicile. See McCann, 458 F.3d at 286 (listing factors relevant to determining domicile and noting the party asserting diversity jurisdiction bears the burden of proof and can meet this burden by proving diversity of citizenship by a preponderance of the evidence). Rather, she leveled accusations of judicial misconduct, suggested that a different case in which she was previously involved should be used for purposes of establishing domicile, and failed to even provide an address for her alleged New Jersey domicile. The District Court considered all of this and was unpersuaded.

After review of the record, we cannot say that we are left with a definite and firm conviction that a mistake has been committed by the District Court. See *id.* Accordingly, for the foregoing reasons, we will affirm the District Court's judgment. We also grant the Paulisicks' pending motion to supplement the appendix, and deny Coulter's pending motion to strike the Paulisicks' brief and appendix.

[*] This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

[1] In her amended complaint, Coulter identified Philadelphia, Pennsylvania, as her principal mailing address since 2011. Am. Compl. at 1-2. Nevertheless, Coulter maintained that she was a resident of New Jersey "since June 2014." Am. Compl. ¶ 1.

[2] Judge Bissoon took judicial notice of Coulter's residence in Pennsylvania as noted in Coulter's prior litigation, specifically citing Coulter v. Gale, 2:12-cv-01461, wherein Coulter averred that she was a resident of Pennsylvania. See Coulter v. Coulter, 715 F. App'x 158, 160 (3d Cir. 2017) (not precedential).

[3] Issue preclusion ensures that "once an issue is actually and necessarily determined by a court of competent jurisdiction, that determination is conclusive in subsequent suits based on a different cause of action involving a party to the prior litigation." *Burlington N. R.R. Co. v. Hyundai Merch. Marine Co.*, 63 F.3d 1227, 1231 (3d Cir. 1995) (quoting *Montana v. United States*, 440 U.S. 147, 153 (1979)). A court will apply issue preclusion when: "(1) the issue sought to be precluded [is] the same as that involved in the prior action; (2) that issue [was] actually litigated; (3) it [was] determined by a final and valid judgment; and (4) the determination [was] essential to the prior judgment." *Id.* at 1231-32 (internal quotation marks omitted).

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA
JEAN COULTER, Plaintiff
v. Civil Action No. 2:15-cv-00937
GERRI VOLCHKO PAULISICK
and JOSEPH R. PAULISICK, Defendants.

MEMORANDUM OPINION

Before the court are a motion for recusal pursuant to 28 U.S.C. § 455 (ECF No. 20), and a motion for sanctions, special relief, and a change of

venue (ECF No. 22), filed by pro se plaintiff Jean Coulter (“Coulter” or “plaintiff”). Also pending is a motion to dismiss and strike this civil action filed by defendants Gerri Volchko Paulisick and Joseph R. Paulisick (collectively, the “Paulisicks”) (ECF No. 18). The motions are fully briefed and ripe for disposition. Before the court can address any of these motions, however, it must assure it has subject-matter jurisdiction.

I. Factual and Procedural Background

This action arose out of a seemingly simple property dispute between neighbors. On July 20, 2015, Coulter filed the original complaint against the Paulisicks, alleging that a fallen tree branch from the Paulisicks’ property caused damage to Coulter’s adjoining property in Butler, Pennsylvania in July 2013 (ECF No. 9).

The Paulisicks filed a motion to dismiss and to strike the original complaint on November 24, 2015, raising the issue of failure to join an indispensable party, namely James Coulter (plaintiff’s brother and alleged co-owner of the property), against whom Coulter filed a separate lawsuit in state court. (ECF Nos. 5, 6). Coulter responded with an amended complaint on December 28, 2015. (ECF No. 9). The amended complaint re-asserts claims of negligence, fraud, severe neglect of property, breach of implied contract, breach of contract, civil conspiracy, and blatant disregard for the safety of others. *Id.* at 2. Coulter also attempts to assert criminal claims of theft and conspiracy. *Id.*

The amended complaint states that after the tree allegedly fell and damaged Coulter’s property, the Paulisicks failed to inform Coulter. *Id.* at 7. Coulter

avers that the tree in question had been previously trimmed on the Paulisicks' side only. *Id.* at 10. Coulter also alleges that "at some point in the first twenty-four to thirty-six hours after Coulter learned about the fallen tree, someone removed the jewelry and other valuables which had belonged to Coulter's Mother." *Id.* at 11 (emphasis original). Central to Coulter's complaint were the actions of her brother, James Coulter.

In her amended complaint, Coulter alleges the court has jurisdiction under 28 U.S.C. § 1332, because she is a resident of New Jersey. Coulter claims to have been a resident of New Jersey "since June 2014," and alleges that she "pays taxes as a resident of New Jersey, carries Health Insurance which limits payments to New Jersey-based providers, [and] is licensed to drive by New Jersey." (ECF No. 9 at ¶¶ 1-2). Coulter's mailing address listed on the face of the amended complaint is located in Philadelphia, Pennsylvania, and she admits that has been her principal mailing address since 2011. (ECF No. 9 at ¶ 1).

Coulter filed a motion to stay, arguing that the federal matter should be stayed pending the outcome of her state litigation against her brother. (ECF No. 10). The court granted the stay, with the order that Coulter notify the court within fourteen days of the final disposition of the litigation against her brother. (ECF No. 13).¹

On July 27, 2015, seven days after filing her original complaint against the Paulisicks in this case, Coulter filed a second suit in the Western District of Pennsylvania, Civil Action No. 15-967, this time against her brother, after learning that he was planning to remove the original litigation from

Butler County to federal court. The court issued an order for Coulter to show cause why jurisdiction was proper, in which the court reviewed the legal rules governing citizenship of an individual. (Civil Case 15-967, ECF No. 2). Coulter filed a response, attaching numerous documents. (Civil Case 15-967, ECF No. 3). After review of these materials, the court found that Coulter is a Pennsylvania citizen and dismissed the case for lack of jurisdiction. (Civil Case 15-967, ECF No. 8). The court found that Coulter did not produce a preponderance of evidence sufficient to meet the burden of proof and overcome the presumption of her Pennsylvania domicile and did not establish an intent to remain in New Jersey.

Coulter appealed to the Third Circuit Court of Appeals, which affirmed the district court's finding that it lacked subject-matter jurisdiction. Coulter v. Coulter, 715 F. App'x 158 (3d Cir. 2017), cert. denied, 138 S. Ct. 2028, reh'g denied, 138 S. Ct. 2712 (2018). The Third Circuit Court of Appeals held that Coulter was a citizen of Pennsylvania on July 27, 2015, when she filed suit against her brother. *Id.* at 161. The court of appeals held that a motion for recusal filed by Coulter against the presiding judge in Civil Case No. 15-967 was rendered moot after the court concluded that it lacked jurisdiction. *Id.*

II. Legal Standards

A. Jurisdiction

¹ The Paulisicks filed a motion for reconsideration on July 12, 2018, which the court granted and permitted the Paulisicks to file a motion to dismiss the amended complaint. (ECF Nos. 15, 17). The Paulisicks thereafter filed a motion to dismiss and to strike the amended complaint. (ECF Nos. 18, 19).

Under 28 U.S.C. § 1332, diversity jurisdiction requires complete diversity, meaning that no plaintiff may be a citizen of the same state as any defendant. It is a long-standing principle that “the jurisdiction of the court depends upon the state of things at the time of the action brought.” *Mullan v. Torrance*, 9 Wheat. 537, 539 (1824). In other words, “although challenges to subject-matter jurisdiction may be raised at any time, whether diversity exists is determined by the citizenship of the parties at the time the action is filed.” *Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 104 n.9 (3d Cir. 2015). This principle was reaffirmed by the United States Supreme Court in *Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 571 (2004), which held that a party’s post-filing change in citizenship cannot cure a lack of diversity subject-matter jurisdiction in the original filing.

B. Issue Preclusion

The doctrine of collateral estoppel, or issue preclusion, “has been utilized for more than a century.” *Tice v. Bristol-Myers Squibb Co.*, 515 F. Supp. 2d 580, 590 (W.D. Pa. 2007). Issue preclusion is based upon the premise “that once an issue has been resolved in a prior proceeding, there is no further fact-finding function to be performed.” *Parklane Hosiery v. Shore*, 439 U.S. 322, 336 (1979). It “has the dual purpose of protecting litigants from the burden of relitigating an identical issue with the same party or his privy and of promoting judicial economy, by preventing needless litigation.” *Id.* at 326. The doctrine “prevents parties from litigating again the same issues when a court of competent jurisdiction has already adjudicated the issue on its

merits, and a final judgment has been entered as to those parties and their privies. Issue preclusion forecloses relitigation in a later action of an issue of fact or law which was actually litigated and which was necessary to the original judgment.", 173 F.3d 192, 198-99 (3d Cir. 1999) (internal citations omitted).

III. Discussion

Coulter contends that this court has subject-matter jurisdiction on the basis of complete diversity of citizenship between the parties. Coulter avers that she has been a resident of New Jersey since June 2014. (ECF No. 9 at ¶ 1). Coulter's federal suit against her brother (Civil Action No. 15-967) was filed one week after she filed this suit against the Paulisicks. The court (after giving Coulter a full opportunity to litigate the issue) rejected Coulter's claim that she was a citizen of New Jersey. The court found that it lacked subject-matter jurisdiction because both parties were citizens of Pennsylvania at the time of filing. (Civil Case 15-967, ECF No. 8). These findings were affirmed by the Third Circuit Court of Appeals. *Coulter v. Coulter*, 715 F. App'x 158 (3d Cir. 2017). Under the doctrine of issue preclusion, this court is bound by the factual findings and legal determinations of prior courts over a previously litigated issue. The court is equally bound by the determinations of the Third Circuit Court of Appeals. Simply put: Coulter was a citizen of Pennsylvania at the time she filed this case. Because the Paulisicks are also citizens of Pennsylvania, the court lacks the ability to exercise jurisdiction over this case and it must be dismissed. All remaining

motions, including Coulter's recusal motion against this court, must be denied as moot. *Id.* at 161.

IV. Conclusion

This court lacks subject-matter jurisdiction over this case because it was conclusively determined that Coulter was a Pennsylvania citizen when the case was filed. All pending motions will be denied as moot and the case will be marked closed.

An appropriate order follows.

November 30, 2018

BY THE COURT:

/s/ Joy Flowers Conti

Joy Flowers Conti

Chief United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA
JEAN COULTER, Plaintiff CIVIL DIVISION
v. No. : 2:15-cv-00937
GERRI VOLCHKO PAULISICK
and Joseph R. Paulisick, Defendants

MOTION FOR RECUSAL –
PURSUANT TO 28 U.S.C. § 455

NOW COMES, Plaintiff, Jean Coulter, and files Motion for Recusal – requesting This Court Recuse, as appeal related to a case from this court, a case where This Court as a Defendant, is active and is currently pending consideration by the Supreme Court of the United States, on Coulter's Petition for Certiorari. (Exhibit A) Further, Recusal is required in light of This Court's history of improper and even

illegal actions, acts which are/were intended to both insulate a colleague from responsibility for crimes committed from the Bench, as well as victimize Coulter.

In support of this Request, Coulter states:

1.) On December 19, 2016, Coulter filed Complaint for Civil Action against District Judge Cathy Bissoon as well as nine (9) others, including Judge Joy Flowers Conti. The Claims against Judge Conti arise from her acts taken in Judge Conti's role as the Chief Judge of the District Court.

2.) The Claims presented in that Civil Complaint, concern injuries suffered by Coulter as the result of actions by Judge Bissoon, which were taken completely without the authority to act in the manner undertaken by Judge Bissoon. Specifically, on December 18, 2012, Judge Bissoon ORDERED the Clerk of Courts for the Western District of Pennsylvania to assign any future case filed by Coulter, exclusively to Judge Bissoon - despite the fact that District Judge Cathy Bissoon lacks the authority to assign cases to herself, or indeed to any judge:

"... IT IS FURTHER ORDERED that ... the following procedure shall be implemented by the Clerks Office with respect to any documents filed by Plaintiff in the future: ...

(2) Plaintiff's filings shall then be submitted to the undersigned ...

(3) Any filings that do not run afoul of this order, as determined by this Court, ..." (emphasis added) (Exhibit B)

3.) This Court learned of Judge Bissoon's crimes, when Coulter erroneously sent the Formal Complaint of Judicial Misconduct against Judge Bissoon to the attention of This Court (as Chief Judge of the District), when Coulter should have sent the Complaint of Judicial Misconduct to the Chief Judge of the Circuit Court.

Rather than both forwarding Coulter's Formal Complaint of Judicial Misconduct by Judge Bissoon to the Chief of the Circuit Court, and reporting Judge Bissoon's criminal acts to the appropriate authorities in Federal Law Enforcement, This Court instead "buried" Coulter's Formal Complaint of Judicial Misconduct by Judge Bissoon. That Complaint stated :

"... (2.) Even more egregious, is the fact that Judge Bissoon has, on December 18, 2012 Order, filed in Civil Action Nos. 12-1050 (Doc. 33) and 12-1241 (Doc. 20), issuing an ORDER to Court Personnel, requiring them to "assign" each and every case filed by Pro Se Plaintiff Coulter exclusively to Judge Bissoon for review without permitting any other Judge to even see the case! (Attorney Jones acted as Counsel for Defendants in each of the cases mentioned in Judge Bissoon's Order of December 18, 2012 - and, Attorney Jones criminally released the Adoption Record, which formed the exclusive basis of Judge Bissoon's Orders dismissing Coulter's Complaints in each and every one of the cases filed by Coulter prior to December 18, 2012!

"the following procedure shall be implemented by the Clerk's Office with respect to any documents filed by

Plaintiff in the future: (1) The Clerk's Office shall file any documents submitted by Plaintiff in due course. Plaintiff shall remain responsible for any applicable filing fees. (2) Plaintiff's filings shall then be submitted to the undersigned for screening. This Court will strike any filings that are in violation of this order." (emphasis in original, emphasis added)

This "Order" is clearly forbidden by Federal Court Practices and Procedures intended to provide for Due Process through a "random" assignment of cases - as Judge Bissoon's Order is intended to (and indeed clearly does) violate Due Process and constitutes a "Color of Law" violation of Coulter's Rights - a Federal Felony (where the Court Personnel are possibly involuntary co-conspirators)!

Through the issuance of an Order addressed to the Court Personnel employed in the records department, Judge Bissoon "recruited" her coconspirators through coercion! ..."

And, the Civil Complaint which names Judge Conti as a Defendant states :

"b.) Judge Joy Flowers Conti is one (1) of the two (2) Judges from the District Court, who is being sued for her actions. Conti was serving as Chief Judge of the District, when she was erroneously sent the Complaint of Judicial Misconduct or Disability, which described Judge Bissoon's criminal activities which injured Coulter. District Judge Conti

chose to pretend that she had never received the Complaint, and rather then reporting the crime which was proven by the Complaint of Judicial Misconduct, Conti chose instead to conceal the felony by District Court Judge Bissoon, rather than report the crime."

...

" 19.) Defendant JOY FLOWERS CONTI also has liability for the damages suffered by Coulter as Judge Conti was erroneously sent the Complaint of Judicial Misconduct against Judge Bissoon - however, Defendant Conti chose to fail to take steps to forward the Complaint of Misconduct to the appropriate individuals in the Circuit Court. Thus, Judge Conti also joined into the Criminal Conspiracy against Coulter and must also share the consequences of the crimes committed directly by Defendant Bissoon.

It is therefore obvious that Defendant Conti's actions not merely abrogate her immunity from civil actions, but Defendant Conti's acts, it is believed, constitute the commission of multiple Federal and State Crimes, including 18 U.S. Code Sections 241 and 242, as Defendant Conti is similarly required to report the Criminal Actions of Defendant Bissoon, but failed to do so, as required by the Administrative duties required by Canon 3B (5)."

(Exhibit C, page 20a., 52a. – 53a.)

4.) Case Law explains that Recusal is required any time that a "reasonable person under

the circumstances would doubt the judge's impartiality" as explained in Jones v. Pittsburgh Nat. Corp., 899 F. 2d 1350 - Court of Appeals, 3rd Circuit 1990 :

" We turn next to a consideration of the merits of the motion to recuse on the basis of 28 U.S.C. § 455(a) which reads in pertinent part:

Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

Under this section a judge must consider whether a reasonable person knowing all the circumstances would harbor doubts concerning the judge's impartiality. *United States v. Dalfonso*, 707 F.2d 757, 760 (3d Cir.1983)."

Although Coulter has been unable to discover any Case Law directly discussing criminal actions by the subject judge, it is believed that there is no more blatant example of "circumstances" which would convince a "reasonable person" that the judge's impartiality is in doubt, than a situation where the Judge has willfully committed a crime which victimizes a Party – particularly when that crime was committed in connection with the Judge's Official (albeit Administrative) Duties – as is the situation under consideration at this time!

5.) It is noteworthy that Counsel for Defendants is now obligated to report the crimes by both District Judge Cathy Bissoon, and This Court, pursuant to the Code of Conduct applicable to Attorneys in Pennsylvania "204 PA Code,

**§ 81.4. Rules of Professional Conduct, Rule 8.3.
Reporting Professional Misconduct.", which states :**

"(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority."

While the Rules do not specify what constitutes an "appropriate authority", it seems readily evident that the only "appropriate authority" for reporting known criminal acts, would be reporting to a member of Law Enforcement which the attorney has reason to believe has the authority to act upon that information, and a willingness to do so.

WHEREFORE, Recusal by This Court is necessary as the result of the obvious bias which has previously been displayed by This Court's refusal to comply with Federal Criminal Statutes as well as the Code of Conduct for Federal Judges – particularly as This Court's failure to comply with those restrictions on The Court's actions (both inside and outside of the courtroom), constitute the commission of crimes which are/were intended to victimize Coulter – including the Federal Crime of Misprision of a Felony (18 U.S.C. Section 4, a Felony) and likely (willing) involvement in another Federal Felony, Color of Law Conspiracy Against Rights ((18 U.S.C. Section 242)

Further, Recusal is required as a "reasonable person" with knowledge of This Court's obligations of restitution to Coulter – which results from This Court's willful defiance of This Court's obligations arising under the Code of Conduct – (specifically, This Court's obligation to report District Judge

Cathy Bissoon's crimes (Exhibit A)), most certainly would mean that every reasonable person would most certainly doubt This Court's willingness and ability to rule in an unbiased manner in any case which is brought before This Court!

Respectfully Submitted
Jean Coulter, Plaintiff

APPEAL,CLOSED,SJE
U.S. District Court
Western District of Pennsylvania (Pittsburgh)
CIVIL DOCKET FOR CASE #: 2:15-cv-00289-CB

COULTER v. LINDSAY et al

Date Filed: 03/02/2015

Assigned to: Judge Cathy Bissoon

Date Terminated: 03/06/2015

Case in other court: Third Circuit, 15-02144

Jury Demand: Plaintiff

Cause: 28:1332 Diversity-Other Contract

Nature of Suit: 190 Contract: Other

Jurisdiction: Diversity

Plaintiff

JEAN COULTER represented by JEAN COULTER

Mailing Address:

260 Pullman Square

PMB 172

Butler, PA 16001

PRO SE

V.

Defendant

ALEXANDER H. LINDSAY, JR.

21a.

Defendant
LINDSAY LAW FIRM
Defendant
JOSEPH VICTOR CHARLTON
and
Defendant
PATRICIA LINDSAY

<u>Date Filed</u>	<u>#</u>	<u>Docket Text</u>
03/02/2015	1	COMPLAINT against JOSEPH VICTOR CHARLTON, ALEXANDER H. LINDSAY, JR, PATRICIA LINDSAY, LINDSAY LAW FIRM (Filing fee, including Administrative fee, \$400, receipt number 24668030637), filed by JEAN COULTER. (Attachments: # 1 Civil Cover Sheet, # 2 Receipt) (jsp) (Entered: 03/03/2015)
03/02/2015		Summons Issued as to JOSEPH VICTOR CHARLTON, ALEXANDER H. LINDSAY, JR, PATRICIA LINDSAY, LINDSAY LAW FIRM. (jsp) (Entered: 03/03/2015)
03/06/2015	2	ORDER, Plaintiff's Complaint (Doc. 1) is DISMISSED WITH PREJUDICE, pursuant to this Court's December 18, 2012 Order, filed in Civil Action Nos. 12-1050 (Doc. 33) and 12-1241 (Doc. 20), designating Plaintiff, Jean Coulter, as a vexatious litigant. Signed by Judge Cathy Bissoon on 3/6/2015. (sje) (Entered: 03/06/2015)

03/06/2015 3 JUDGMENT ORDER. Consistent with the Order filed contemporaneously herewith, FINAL JUDGMENT hereby is entered pursuant to Rule 58 of the Federal Rules of Civil Procedure. This case has been marked closed. Signed by Judge Cathy Bissoon on 3/6/2015. (sje) (Entered: 03/06/2015)

03/24/2015 4 MOTION for Reconsideration re 2 Order, by JEAN COULTER. (jsp) (Entered: 03/24/2015)

03/24/2015 5 Addendum by JEAN COULTER re 4 Motion for Reconsideration. (Attachment: # 1 Exhibit in Support) (jsp) (Entered: 03/25/2015)

03/25/2015 6 ORDER denying 4 Motion for Reconsideration, for the reasons stated in the Court's March 6, 2015 Order (Doc. 2). Signed by Judge Cathy Bissoon on 3/25/2015. (sje) [Staff notes: A copy of this Order, and a second copy of the Court's March 6, 2015 Order (Doc. 2) have been sent, via First-Class U.S. Mail, to Plaintiff at her address of record.] (Entered: 03/25/2015)

04/02/2015 7 EMERGENCY MOTION for Recusal, MOTION for Special Relief by JEAN COULTER. (jsp) (Entered: 04/02/2015)

04/02/2015 8 ORDER denying 7 Motion for Recusal and Motion for Special Relief. Signed by Judge Cathy Bissoon on

4/2/2015. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (sje) [Staff notes: A copy of this Text Order has been sent, via First Class U.S. Mail, to Plaintiff at her address of record.] (Entered: 04/02/2015)

04/02/2015 9 MOTION to Amend the Findings Pursuant to Rule 52 by JEAN COULTER. (jsp) (Entered: 04/03/2015)

04/07/2015 10 ORDER denying 9 Motion to Amend the Findings Pursuant to Rule 52. Signed by Judge Cathy Bissoon on Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (sje) [Staff notes: A copy of this Text Order has been sent, via First Class U.S. Mail, to Plaintiff at her address of record.] (Entered: 04/07/2015)

4/7/2015. 11 NOTICE OF APPEAL as to 10 Order on Motion to Amend/Correct, by JEAN COULTER. Filing fee \$505. Motion for IFP N/A. Certificate of Appealability N/A. Court Reporter(s): None. The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. The Transcript Purchase Order form will NOT be mailed to the parties. The form is available on the Court's internet

site. (Attachment: # 1 Receipt) (jsp)
(Entered: 05/04/2015)

260 Pullman Square, PMB 172
Butler, PA 16001
April 12, 2015
Chief Judge of the District Court Joyce Flowers
Conti
RE: District Court Judge Cathy Bissoon

Dear Judge Conti:

I am submitting an official complaint against Judge Bissoon, for actions which I believe clearly violate the Canons of Judicial Conduct and possibly constitute the commission of a number of Crimes (both Felonies and Misdemeanors) by Judge Bissoon.

As evidence of Judge Bissoon's clearly improper actions, I have included copies of filings that I recently made with the Federal Court. As you will see, the documents explain that in what Judge Bissoon have determined are "related" cases, the filing of an Adoption Record in the Federal Court constitutes the violation of Pennsylvania Criminal Statutes by the Defendants' Counsel in those cases. And, because this release of Sealed Adoption Records was committed by "State Actors", this violation of our Civil Rights, specifically the Right to Privacy, also involves the commission of Color of Law Civil Rights Violations by Defendants (and Counsel) in those other actions.

I asked Judge Bissoon to reconsider her decision to unilaterally dismiss my current case, based on its supposed "related-ness" to those other cases – and I also asked Judge Bissoon to "re-seal" the Adoption

Record which she previously, improperly utilized as the "Public Record" against me. At that time, I explained that the Record was sealed, and therefore not properly considered part of the "Public Record" of any case, but the Judge ignored this information and used it anyway. I realize that it might be too late to address that set of improper actions by Judge Bissoon, but Judge Bissoon's recent refusal to now seal the Adoption Record which she improperly permitted to be released at that time, appears to directly involve Judge Bissoon in the cover-up of the crimes in the earlier cases!

By Pennsylvania Statute, 23 Pa. Code Section 2910, it is a crime for any attorney or any court employee, to release the clearly confidential "information relating to an Adoption :

§ 2910. Penalty for unauthorized disclosure.
Any officer or employee of the court, other than a judge thereof, the Department of Health, the Department of Public Welfare or any agency who willfully discloses impounded or otherwise confidential information relating to an adoption, other than as expressly authorized and provided in this chapter, commits a misdemeanor of the third degree.
And, Pennsylvania Statutes clearly define exactly who may legitimately release those Records – and Judge Bissoon is not qualified in any manner to authorize the release of Pennsylvania Adoption Records.

The specific Adoption Record which was released by Defendants represented by the firm of JonesPassodelis, was the clearly-labeled Judge's Decision in an Adoption Proceeding. As I mentioned, over my clear protests, the same document was

improperly classified as the “Public Record” of a “related” case and was also improperly utilized by Judge Bissoon, to determine that the criminal actions committed by my attorneys (for which I was the victim) in that matter, resulted in me receiving “all the Process that [I] was Due”.

I requested in my Petition for Special Relief, for the Adoption Record to be “re-sealed” by Judge Bissoon, the same Judge who improperly permitted it to be released at the time of the earlier cases – and Judge Bissoon flatly refused that request without explanation. Judge Bissoon’s entirely improper release of the Adoption Record at that time, was, I believe, possibly done without knowledge of the crime that she was facilitating. However, it is now apparent that Judge Bissoon is now acting for one purpose - to permit the original crimes by attorneys from JonesPassodelis (and their clients), to remain protected from investigation and prosecution by Law Enforcement! Judge Bissoon’s current decisions to permit sealed Adoption Records to remain “un-sealed” and open to Public Inspection, serves no legitimate purpose . Judge Bissoon’s actions, I believe, were intended solely to discourage me from reporting the Criminal Actions by attorneys from the firm of JonesPassodelis (and their clients) to Federal Law Enforcement. Or perhaps Judge Bissoon was/is attempting to discourage the filing of charges related to the Color of Law Civil Rights Violations against the “State Actors” in those earlier cases. This would be accomplished when Law Enforcement considers Judge Bissoon’s decision to permit the Adoption Record to remain in the “Public Record” as a judicial determination that no Federal Criminal Violation had occurred – when a crime clearly has occurred.

In addition to the Federal Civil Rights Crimes:
Title 18, U.S.C., Section 242 Deprivation of Rights
Under Color of Law and Title 18, U.S.C., Section 241
Conspiracy Against Rights , I believe that Judge
Bissoon is also implicated in :

- a. 18 PA Code § 5101. Obstructing administration of law or other governmental function. – a 2nd degree misdemeanor
- b. 18 PA Code § 5107. Aiding consummation of crime. – a 2nd degree misdemeanor
- c. 18 U.S. Code § 1512 · Tampering with a witness, victim, or an informant
- and d. 18 U.S. Code § 1513 · Retaliating against a witness, victim, or an informant.

I have come to understand that the Judges in all of “our” Courts see their primary role as maintenance of the Status Quo. However, I believe that Judge Bissoon’s involvement in crimes committed by defendants and their lawyers in those earlier cases, by “concealing” the fact that they did commit a crime, implicates Judge Bissoon in those crimes as well · and requires that Judge Bissoon be investigated, through both the Judicial Branch as well as the Federal Criminal Justice System. So, I am relying on the Federal Court to assure that Judge Bissoon is “brought to Justice”.

If you have any questions about this matter, I can be reached at 412-616-9505. The mailing address above, will eventually forward mail to me, but often it takes up to a month before enough mail accumulates before it is forwarded. So, if you have sent anything time-sensitive, please leave a message to that effect at my phone number, and I will see that your mail reaches me in a more timely manner (or I

may be able to provide you with an address where I will more quickly be able to receive the mail directly).

Of course, I am also available for contact by members of the Federal Justice Law Enforcement, to aid in their investigation of Judge Bissoon's criminal actions.

Sincerely,

Jean Coulter

29a.