

ATTACHMENTS

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Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

April 24, 2023

Clerk
United States Court of Appeals for the Seventh
Circuit
219 S. Dearborn Street, Room 2722
Chicago, IL 60604

Re: Jody Kimbrell
v. Bank of America, N.A.
No. 22-6975
(Your No. 23-1139)

Dear Clerk:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until May 15, 2023, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

Sincerely,



Scott S. Harris, Clerk

A 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

BANK OF AMERICA, N.A.)
Plaintiff,)
v.) Case No. 1:22-cv-1348
JODY D. KIMBRELL and)
MICHAEL D. KIMBRELL)
Defendants.)

ORDER

(Filed Nov. 4, 2022)

Pending before the Court is Plaintiff Bank of America, N.A.'s Motion to Remand. (ECF No. 14). Defendant Jody Kimbrell has responded, and the motion is ripe for ruling. Plaintiff's Motion to Remand is granted for the reasons stated below.

BACKGROUND

Plaintiff initially filed this Complaint to Foreclosure Mortgage against Defendant Jody Kimbrell and several other defendants in Illinois State Court in 2018. ECF No. 5-1. The case was litigated in state court for several years. On August 31, 2021, the state court granted Plaintiff's motion for summary judgment and motion for reformation of the mortgage. ECF No. 1 at 28. On September 2, 2021 the state court entered a judgment for foreclosure and sale in favor of Plaintiff.

Id. The parties agree that the foreclosure sale was scheduled for October 26, 2022.

More than one year after the state court entered summary judgment in favor of Defendant, Defendant filed a Notice of Removal to Federal Court. ECF No. 1. Plaintiff moved to remand the case arguing that the removal was untimely, procedurally improper, and that this Court otherwise lacks subject matter jurisdiction over this foreclosure action.

LEGAL STANDARD

“Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). If a plaintiff files a case in state court even though the federal courts also have jurisdiction, the defendant may remove the case to federal court. *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005). Section 1441(a) provides:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

28 U.S.C. § 1441(a). Generally, the party invoking jurisdiction bears the burden of establishing all elements of federal subject matter at the time of removal. *Lujan*

v. Defenders of Wildlife, 504 U.S. 555, 561 (1992); *Doe v. Allied-Signal, Inc.*, 985 F.2d 908, 911 (7th Cir. 1993). Courts are to presume that “a cause lies outside [its] limited jurisdiction.” *Kokkonen*, 511 U.S. at 377.

DISCUSSION

As Plaintiff notes, Defendant Jodie Kimbrell removed this case more than a year after the state court entered the judgement for foreclosure. This case was also initially filed in 2018, meaning that Defendant delayed removing the case for years and the state court has already entered summary judgment in favor of Plaintiff. Accordingly, Plaintiff argues that removal was untimely. Plaintiff also argues that Defendant does not otherwise have a meritorious basis for removal in that she claims federal question jurisdiction when the complaint is a mortgage foreclosure and reformation act under Illinois law. ECF No. 14 at 5. Finally, Plaintiff points out that Defendant failed to join all the defendants named in the state court matter and the Notice of Removal bears only Defendant Jodie Kimbrell’s signature. *Id.* at 4. The Court agrees that there are multiple reasons it is appropriate to remand this case to state court, as explained below.

A. This Court Lack Subject Matter Jurisdiction.

Defendant attempts to argue that a federal question has arisen because the mortgage at issue is insured by the Federal Housing Administration (“FHA”)

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

BANK OF AMERICA, N.A.)
Plaintiff,)
v.) Case No. 1:22-cv-1348
JODY D. KIMBRELL and)
MICHAEL D. KIMBRELL)
Defendants.)

¹⁵ [DOCKET EXCERPT]

11/3/2022 TEXT ONLY ORDER DENYING 22. Defendant seeks to have the Court reconsider its order to remand the case to state court. Plaintiff does not adequately explain why a motion to reconsider would be appropriate here. Plaintiff primarily raises new arguments that she could have initially raised or rehashes arguments the Court already rejected. As the Court initially explained, it did not have subject jurisdiction over the removed case and Plaintiff also made numerous errors in removing the case that otherwise required remand. Notably, she waited for years until the case was nearly resolved in state court before removing. Accordingly, the Court will not reconsider its order when the case so clearly belongs in state court and Defendants Motion for Leave to File Motion to Reconsider 22 is denied. Entered by Judge

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App. 12

Michael M. Mihm on 11/15/2022. (VH) (Entered: 11/15/2022)

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Date Filed	#	Docket Text
02/07/2023		TEXT ONLY ORDER DENYING <u>32</u> . Defendant Jody Kimbrell has filed a Motion to Reconsider, requesting that the Court reconsider its Order denying Kimbrell's Motion for Leave to Appeal in forma pauperis. In part, the Court observed that Defendant had missed the deadline to appeal. The Court otherwise explained that it lacked jurisdiction and Defendant's attempts to appeal were frivolous. Defendant now argues that she did not receive notice of the Court's decision and thus, her time to appeal should be extended. The Court disagrees with Kimbrell's assertion that she did not receive a copy of the order, but the Court would not have granted her motion even if it were timely filed because Kimbrell's appeal was otherwise frivolous as explained in the Court's initial order (ECF No. 30). Accordingly, Kimbrell's Motion for Reconsideration <u>32</u> is DENIED. Entered by Judge Michael M. Mihm on 2/7/2023. (VH) (Entered: 02/07/2023)
	D	
02/06/2023	<u>33</u>	TRANSCRIPT INFORMATION SHEET by Jody D Kimbrell. (VH) (Entered: 02/06/2023)
01/25/2023	<u>32</u>	MOTION for Leave to File Motion to Reconsider January 24, 2023 Order Pursuant Rule 59(e) by Defendant Jody D Kimbrell. Responses due by 2/8/2023 (Attachments: # <u>1</u> Memorandum in Support)(VH) (Entered: 01/25/2023)
01/24/2023	<u>31</u>	CIRCUIT RULE 3(b) FEE NOTICE re <u>23</u> Notice of Appeal. (VH) (Entered: 01/24/2023)
01/23/2023	<u>30</u>	ORDER Entered by Judge Michael M. Mihm on 1/23/2023. Denying <u>25</u> Motion for Leave to Appeal in forma pauperis; denying <u>26</u> Motion ; denying <u>27</u> . (SEE FULL ORDER). (AEM) (Entered: 01/23/2023)
01/23/2023	<u>29</u>	NOTICE of Docketing Record on Appeal from USCA re <u>23</u> Notice of Appeal filed by Jody D Kimbrell. USCA Case Number 23-1139. (JS) (Entered: 01/23/2023)
01/20/2023	<u>28</u>	Short Record of Appeal Sent to US Court of Appeals re <u>23</u> Notice of Appeal. (VH) (Entered: 01/20/2023)
01/20/2023	<u>27</u>	MOTION for Leave for Order to File Through ECF by Defendant Jody D Kimbrell. Responses due by 2/3/2023 (VH) (Entered: 01/20/2023)
01/20/2023	<u>26</u>	MOTION for Leave for Order to Stay Pending Appeal by Defendant Jody D Kimbrell. Responses due by 2/3/2023 (VH) (Entered: 01/20/2023)
01/20/2023	<u>25</u>	MOTION for Leave to Appeal in forma pauperis by Defendant Jody D Kimbrell. Responses due by 2/3/2023 (VH) (Entered: 01/20/2023)
01/20/2023	<u>24</u>	DOCKETING STATEMENT by Jody D Kimbrell re <u>23</u> Notice of Appeal. (VH) (Entered: 01/20/2023)
01/20/2023	<u>23</u>	NOTICE OF APPEAL as to <u>20</u> Order on Motion to Remand by Jody D Kimbrell. (VH) (Entered: 01/20/2023)
11/15/2022		TEXT ONLY ORDER DENYING <u>22</u> . Defendant seeks to have the Court reconsider its order to remand the case to state court. Plaintiff does not adequately explain why a motion to reconsider would be appropriate here. Plaintiff primarily raises new arguments that she could have initially raised or rehashes arguments the Court already rejected. As the Court initially explained, it did not have subject jurisdiction over the removed case and Plaintiff also made numerous errors in removing the case that otherwise required remand. Notably, she waited for years until the case was nearly resolved in state court before removing. Accordingly, the Court will not reconsider its order when the case so clearly belongs in state court and Defendants Motion for Leave to File Motion to Reconsider <u>22</u> is denied. Entered by Judge Michael M. Mihm on 11/15/2022. (VH) (Entered: 11/15/2022)
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**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT OF ILLINOIS
PEORIA COUNTY**

Bank of America, N.A.,

Plaintiff,

Filed
Robert M. Spears
March 17, 2023
Clerk of the Circuit Court
Peoria County, Illinois

Case No.: 18-CH-00420

v.

Michael D. Kimbrell; Jody Kimbrell; Meister Plumbing, Inc.; Republic Bank of Chicago;
Federal National Mortgage Association; Foresite Realty Partners, LLC; Tri-County Masonry and
Concrete LLC

Defendant.

ORDER

The undersigned has had an opportunity to review the entirety of this case file and issues the following findings and ruling with regard to pending motions, "notices" (documents filed by Jody Kimbrell are sometimes referred to as "notices" but, in fact, seek relief and are therefore in the nature of motions or petitions) and petitions and the like.

Judge Gilles issued an Order on 6/21/19 requiring Jody Kimbrell to seek leave to file future pleadings. Jody Kimbrell has repeatedly violated that Order and been admonished by other judges on several occasions to adhere to the 6/21/19 Order, yet Jody Kimbrell continues to simply file pleadings without seeking leave to do so.

The recent history of this case involves Jody Kimbrell seeking removal to the Central District of Illinois. On 11/4/2022, the Central District found removal was not appropriate for various reasons and remanded the case to this Court. Thereafter, Jody Kimbrell sought relief in the Seventh Circuit Court of Appeals. The Seventh Circuit concluded it lacked jurisdiction. Jody Kimbrell now indicates she is seeking relief in the United States Supreme Court. She is also simultaneously pursuing relief in the Illinois Appellate Court and the Illinois Supreme Court.

In this Court, the following documents have been filed recently by Jody Kimbrell, namely:

"Notice of Motion to Stay Judicial Sale" - filed 2/14/23

"Notice of Motion to Stay Judicial Sale" - file 2/14/23

"Notice of Petition for a Writ of Certiorari in the United States Supreme Court" - filed 2/24/23

"Notice of Petition for a Writ of Certiorari in the IL Supreme Court" - filed 2/28/23

"Notice of Appeal" - 3/6/23

"Motion for Leave to File Statement of Facts Prior to This Court Ruling March 17, 2023" - filed 3/10/23

"Defendant's Clarification Before Ruling March 17, 2023" - filed 3/14/23

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Jody Kimbrell has either not complied with the 6/21/19 Court Order or the Court concludes the filings have no bearing on any issues pending in this Court at this time. All of the above-identified filings are stricken accordingly.

It should also be noted that Jody Kimbrell appears to be seeking relief in three (3) different appellate venues at this time. Those efforts to appeal must run their course before this Court would be a proper venue for any future litigation (if any). This would be an additional reason to strike the above-identified filings.

Clerk to mail a copy of this Order to the parties of record.

ENTERED: 3/17/2023



JUDGE OF THE TENTH JUDICIAL CIRCUIT

John Kienzle

6257813

STATE OF ILLINOIS
COUNTY OF PEORIA

IN THE CIRCUIT COURT OF THE 10TH JUDICIAL CIRCUIT,
PEORIA COUNTY, PEORIA, ILLINOIS

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

JODY D KIMBRELL A/K/A JODY
KIMBRELL , MICHAEL D KIMBRELL AKA
MICHAEL KIMBRELL , MEISTER
PLUMBING, INC, REPUBLIC BANK OF
CHICAGO, TRI-COUNTY MASONRY &
CONCRETE LLC, FORESITE REALTY
PARTNERS, LLC, FEDERAL NATIONAL
MORTGAGE ASSOCIATION

Defendant(s).

Case No. 18 CH 00420

Property Address: 714 S EDDLEMAN RD
HANNA CITY, IL 61536-0000

NOTICE OF MOTION

PLEASE TAKE NOTICE that on May 15, 2023, at 9:00 a.m. or as soon thereafter as Counsel may be heard, I shall appear before the Honorable Judge Mark E. Gilles sitting in Courtroom 203 of the Peoria County Circuit Clerk, 324 Main Street, Peoria, IL 61602, and shall there and then present the attached Motion for Order Approving Report of Sale and Distribution, Confirming Sale and Eviction Order.

IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE ILLINOIS MORTGAGE FORECLOSURE LAW.

Dated: April 13, 2023

By: 
MyXuan Koski Attorney

CERTIFICATE OF SERVICE

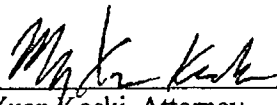
I, MyXuan Koski, hereby certify, that I caused to be served on the members of the attached service list, the attached document(s), by electronic mail via eFileIL, or by mailing a copy via US Mail, as so noted below, postage pre-paid, at 134 N. LaSalle St., Chicago, Illinois 60602, on April 13, 2023, before the hour of 5:00 p.m.



ATT E
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Under penalties as provided by law pursuant to 735 ILCS Sec. 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true

Dated: April 13, 2023

Signature: 
MyXuan Koski, Attorney

Marinosci Law Group, P.C.
Attorney for Plaintiff
134 N. LaSalle Street
Suite 1440
Chicago, IL 60602
Telephone: 312-940-8580
Facsimile: 312-546-7571
ARDC No.: 6257813
mgil@mlg-defaultlaw.com
19-08066

SERVICE LIST

JODY D KIMBRELL A/K/A JODY KIMBRELL
714 S EDDLEMAN RD
HANNA CITY, IL 61536-0000
JODY513@COMCAST.NET

JODY D KIMBRELL A/K/A JODY KIMBRELL
6608 N UNIVERSITY ST
PEORIA, IL 61614
JODY513@COMCAST.NET

MICHAEL D KIMBRELL AKA MICHAEL KIMBRELL
714 S EDDLEMAN RD
HANNA CITY, IL 61536

MEISTER PLUMBING, INC
C/O DAVID W. STUCKET, 101 S W ADAMS ST
#600
PEORIA, IL 61602

REPUBLIC BANK OF CHICAGO
2221 CAMDEN COURT
OAK BROOK, IL 60523

REPUBLIC BANK OF CHICAGO
1510 75TH ST. STE B
DARIEN, IL 60561

TRI-COUNTY MASONRY & CONCRETE LLC
402 E. MAIN ST
ELMWOOD, IL 61529

FORESITE REALTY PARTNERS, LLC
C/O REGISTERED AGENT SOLUTIONS, INC., 901 SOUTH 2ND STREET
STE 201
SPRINGFIELD, IL 62704

FEDERAL NATIONAL MORTGAGE ASSOCIATION
1 S. WACKER DR
SUITE 1400
CHICAGO, IL 60606

MIKE MARINCIC, ESQ.
(ATTORNEY FOR THIRD PARTY PURCHASER)
2337 N. TAYLOR ROAD
HANNA CITY, IL 61536



IN THE CIRCUIT COURT OF THE 10TH JUDICIAL CIRCUIT
PEORIA COUNTY - PEORIA, ILLINOIS

BANK OF AMERICA, N.A.;)
Plaintiff,) 18 CH 420
vs.)
JODY D. KIMBRELL AKA JODY KIMBRELL; MICHAEL D)
KIMBRELL AKA MICHAEL KIMBRELL; MEISTER)
PLUMBING, INC.; REPUBLIC BANK OF CHICAGO;)
TRI-COUNTY MASONRY & CONCRETE, LLC; FORESITE)
REALTY PARTNERS, LLC; FEDERAL NATIONAL)
MORTGAGE ASSOCIATION; UNKNOWN OWNERS AND NON)
RECORD CLAIMANTS; Defendants,)

**MOTION FOR ORDER APPROVING REPORT OF
SALE AND DISTRIBUTION AND ORDER TO EVICT**

NOW COMES the Plaintiff, by Marinosci Law Group, PC, its attorneys and moves this court for an Order to Evict and in support thereof, states as follows:

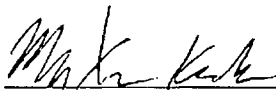
1. That Samuel and Nicole Marincic was the purchaser of the subject premises arising out of the foreclosure proceedings in the above captioned case, and that the equity of redemption has expired.

2. That pursuant to the aforesaid sale, following expiration of the redemption period, a Report of Sale and Distribution was thereafter presented to the Court and approved.

3. Should a deficiency result from the sale, the property is subject to a special right of redemption pursuant to ILCS 735, Sec. 5/15-1604.

4. That an Order to Evict shall issue against any and all Defendants who are in possession of the subject premises.

WHEREFORE, the Plaintiff, prays for an Order Approving the Report of Sale and Distribution, for the entry of an In Rem deficiency Judgment and directing the Sheriff of PEORIA County to evict and eject from possession of the subject premises JODY D KIMBRELL A/K/A JODY KIMBRELL, MICHAEL D KIMBRELL AKA MICHAEL KIMBRELL.

BY: 
Marinosci Law Group, PC
Attorneys for Plaintiff

Marinosci Law Group, PC
134 North LaSalle Street
Suite 1440
Chicago, Illinois 60602
(312) 940-8580

IN THE CIRCUIT COURT OF THE 10TH JUDICIAL CIRCUIT
PEORIA COUNTY - PEORIA, ILLINOIS

BANK OF AMERICA, N.A.;)
Plaintiff,) 18 CH 420
vs.)
JODY D. KIMBRELL AKA JODY KIMBRELL; MICHAEL D)
KIMBRELL AKA MICHAEL KIMBRELL; MEISTER)
PLUMBING, INC.; REPUBLIC BANK OF CHICAGO;)
TRI-COUNTY MASONRY & CONCRETE, LLC; FORESITE)
REALTY PARTNERS, LLC; FEDERAL NATIONAL)
MORTGAGE ASSOCIATION; UNKNOWN OWNERS AND NON)
RECORD CLAIMANTS; Defendants,)

CERTIFICATE OF SALE

I, the undersigned supervisor of sales for the Sheriff of Peoria County, do hereby certify, that pursuant to a Judgment of Foreclosure and Sale entered herein, the plaintiff advertised the following described real estate to be sold at public auction to the highest bidder for cash, as set forth in said advertisement offered for sale at public auction to the highest bidder for cash, in accordance with said advertisement.

Samuel and Nicole Manic
WHEREUPON, ~~Bank of America, N.A., the plaintiff herein,~~ offered and bid therefore the sum of one hundred ten thousand five hundred fifty and 00/100 dollars (\$110,550.00) and that being the highest and best bid, I accordingly struck off and sold to said bidder the following described real estate:

PART OF THE NW 1/4 OF SECTION 18, TOWNSHIP NORTH, RANGE EAST OF THE FOURTH PRINCIPAL MERIDIAN, PEORIA COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS AND BEARINGS ARE FOR THE PURPOSE OF DESCRIPTION ONLY: BEGINNING AT AN IRON ROD AT THE NW CORNER OF THE NW 1/4 OF SECTION 18; THENCE NORTH 88 DEGREES 41 MINUTES, 47 SECONDS EAST ALONG THE NORTH LINE OF THE NW 1/4 OF SAID SECTION 18, DISTANCE OF 184.00 FEET TO RAILROAD SPIKE; THENCE SOUTH 603.00 FEET TO AN IRON ROD; THENCE SOUTH 88 DEGREES, 41 MINUTES, 47 SECONDS WEST, 184.00 FEET TO AN IRON ROD ON THE WEST LINE OF THE NW 1/4 OF SAID SECTION 18; THENCE NORTH ALONG THE WEST LINE OF THE NW 1/4 OF SAID SECTION 18, DISTANCE OF 603.00 FEET TO THE POINT OF BEGINNING. (EXCEPT THE COAL AND OTHER MINERAL RIGHTS UNDERLYING THE SURFACE OF SAID LAND AND ALL RIGHTS AND EASEMENTS IN FAVOR OF THE ESTATE OF SAID COAL AND OTHER MINERALS. NOW KNOWN AS LOTS AND IN KIMBRELL CORNER, BEING SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION EIGHTEEN (18), TOWNSHIP EIGHT (8) NORTH, RANGE SEVEN (7) EAST OF THE FOURTH PRINCIPAL MERIDIAN, ACCORDING OUT THE PLAT THEREOF RECORDED 19-08066 NOVEMBER 13, 2012 AS DOCUMENT NO. 2012029986 IN PLAT BOOK 12, PAGE 106, IN PEORIA COUNTY, ILLINOIS. Commonly known as 714 S. Eddleman Rd., Hanna City, IL 61536. P.I.N. 17-18-100-006, 17-18-100-007, 17-18-100-001.

This Certificate of Sale is issued subject to confirmation of sale, at which time the holder of this Certificate of Sale will be entitled to a deed.

Witness my hand and seal, in duplicate, this Wednesday, February 15, 2023.

Sheriff of Peoria County, Illinois

By *Chris Wath*
Deputy Sheriff of Peoria
County, Illinois
Melvin Hendrick