

**SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

Jean Coulter, Petitioner

v.

Thomas Forrest and Dennis Hoerner, Respondents

AND NOW, this 6th day of February, 2018, the
Petition for Allowance of Appeal is DENIED. Justice
Wecht did not participate in the consideration or
decision of this matter.

JEAN COULTER, Appellant,

v.

**THOMAS FORREST AND DENNIS HOERNER,
Appellee.**

No. 779 MDA 2016.

Superior Court of Pennsylvania.

Filed July 7, 2017.

Jean Coulter, for Appellant, Pro Se.

John Craig Manning, Pennsylvania Board of
Probation & Parole, for Appellee, Thomas Forrest
and Dennis Hoerner.

Appeal from the Order Entered April 14, 2016, in the
Court of Common Pleas of Dauphin County, Civil
Division at No(s). 2013-CV-4721-CV.

BEFORE: GANTMAN, P.J., SHOGAN, J., and OTT,
J.

NON-PRECEDENTIAL DECISION — SEE
SUPERIOR COURT I.O.P. 65.37

MEMORANDUM BY GANTMAN, P.J.

Appellant, Jean Coulter, appeals pro se from the order entered in the Dauphin County Court of Common Pleas, which granted the motion of Appellees, Thomas Forrest and Dennis Hoerner, to dismiss Appellant's complaint. We affirm.

The relevant facts and procedural history of this case are as follows. On May 11, 2007, Appellant entered a plea of nolo contendere in the Butler County Court of Common Pleas to aggravated assault of her minor daughter ("Victim"). The court sentenced Appellant on July 17, 2007, to fifteen (15) to thirty (30) months' incarceration, plus thirty-six (36) months' probation. In January 2011, the Butler County Orphans' Court involuntarily terminated Appellant's parental rights to Victim, upon petition of Butler County Children and Youth Services. While Appellant was on probation, Appellees were her probation officers.

Following the Butler County proceedings, Appellant filed countless pro se actions against various individuals and entities involved in those proceedings, including Appellees, in Pennsylvania state and federal courts. In each matter Appellant filed against Appellees, she alleged, inter alia, Appellees improperly imposed on her special conditions of probation, including requiring her to undergo a mental health evaluation, and engaged in a criminal conspiracy to deprive Appellant of her constitutional rights. Appellant unsuccessfully litigated her actions against Appellees.

In this case, Appellant filed a complaint against Appellees in the Dauphin County Court of Common Pleas on June 3, 2013. On June 26, 2013, Appellees filed preliminary objections to Appellant's

complaint. Appellant filed an amended complaint on July 15, 2013, and Appellees filed preliminary objections on August 1, 2013. In her amended complaint, Appellant challenged the special conditions of her Butler County probation, which Appellees purportedly imposed on her, and alleged Appellees violated her privacy rights. On August 20, 2015, the court issued notice of intent to terminate the case for inactivity per Pa.R.J.A. 1901. Appellant filed a "praecipe for administrative application for a status conference" on September 25, 2015. On December 8, 2015, Appellees filed a motion to dismiss Appellant's amended complaint, pursuant to Pa.R.C.P. 233.1.

In a separate matter that Appellant had instituted against different defendants, the Allegheny County Court of Common Pleas entered an opinion and an order per Rule 233.1, dated December 17, 2015. In its order, the Allegheny County court enjoined Appellant from initiating a pro se action and filing a pro se pleading in any Pennsylvania state court that: (1) names as a defendant any individual or entity Appellant had previously named as a defendant in a state or federal court proceeding; and (2) asserts or alleges a cause of action or claim Appellant had previously asserted in a state or federal court proceeding. Under the order, Appellant must obtain written leave of court or file a bond before she institutes a pro se action. The order authorizes any Court of Common Pleas to dismiss Appellant's noncompliant actions per Rule 233.1 and impose sanctions on Appellant.

On April 14, 2016, the court in the present matter granted Appellees' motion and dismissed Appellant's Dauphin County amended complaint.

Appellant filed on May 5, 2016, a single motion for reconsideration of the April 14th order and for recusal. The court declined to entertain and effectively denied Appellant's motion on May 9, 2016. On May 13, 2016, Appellant timely filed a notice of appeal from the court's April 14th order. The court ordered Appellant, on May 17, 2016, to file a concise statement of errors complained of on appeal per Pa.R.A.P. 1925(b). Appellant timely complied on June 3, 2016.

Appellant raises four issues for our review:

IS [PA.R.C.P.] 233.1
UNCONSTITUTIONAL WITH RESPECT TO
BOTH THE UNITED STATES
CONSTITUTION AS WELL AS THE
PENNSYLVANIA CONSTITUTION, AS IT IS
"UNCONSTITUTIONALLY VAGUE" AND
EXCEEDS THE RULE-MAKING
AUTHORITY OF THE PENNSYLVANIA
SUPREME COURT?

DID THE TRIAL COURT [COMMIT
AN] ERROR OF LAW AND ABUSE OF
DISCRETION WHEN DISMISSING
[APPELLANT'S COMPLAINT] UNDER
[PA.R.C.P.] 233.1(D), AS THE TRIAL
COURT'S PERSONAL RESEARCH NEVER
UNCOVERED ANY PRIOR ORDER OF ANY
COURT WHICH WAS VIOLATED BY
APPELLANT IN THE INSTANT MANNER?

DID THE TRIAL COURT [COMMIT
AN] ERROR OF LAW AND ABUSE OF
DISCRETION WHEN DISMISSING
[APPELLANT'S COMPLAINT] UNDER
[PA.R.C.P.] 233.1(A), AS . . . APPELLEES

FAILED TO PROVIDE SUPPORT FOR THEIR CLAIM THAT "RELATED" CLAIMS AGAINST "RELATED" DEFENDANTS WERE EVER "RESOLVED" IN ANY PRIOR MATTER[?]

DID THE TRIAL COURT COMMIT [AN] ERROR OF LAW AND ABUSE OF DISCRETION WHEN REFUSING TO RECUSE— EVEN WHEN REFUSING TO CONSIDER APPELLANT TIMELY FILED [A] MOTION FOR RECUSAL—BASED SOLELY ON [APPELLANT'S] FAILURE TO COMPLY WITH A LOCAL RULE WHICH IS CLEARLY INAPPLICABLE FOR MOTIONS FOR RECUSAL AND RECONSIDERATION?

(Appellant's Brief at 2-3).[1]

Our scope and standard of review are as follows:

To the extent that the question presented involves interpretation of rules of civil procedure, our standard of review is de novo. To the extent that this question involves an exercise of the trial court's discretion in granting [a] "motion to dismiss," our standard of review is abuse of discretion.

Judicial discretion requires action in conformity with law on facts and circumstances before the trial court after hearing and consideration. Consequently, the court abuses its discretion if, in resolving the issue for decision, it misapplies the law or exercises its discretion in a manner lacking reason. Similarly, the trial court abuses its discretion if it does not follow legal procedure.

Sigall v. Serrano, 17 A.3d 946, 949 (Pa.Super. 2011)
(internal citations omitted).

Pennsylvania Rule of Civil Procedure 233.1
provides:

Rule 233.1. Frivolous Litigation. Pro Se
Plaintiff. Motion to Dismiss

(a) Upon the commencement of any
action filed by a pro se plaintiff in the court of
common pleas, a defendant may file a motion
to dismiss the action on the basis that

(1) the pro se plaintiff is alleging the
same or related claims which the pro se
plaintiff raised in a prior action against the
same or related defendants, and

(2) these claims have already been
resolved pursuant to a written settlement
agreement or a court proceeding.

(b) The court may stay the action while
the motion is pending.

(c) Upon granting the motion and
dismissing the action, the court may bar the
pro se plaintiff from pursuing additional pro se
litigation against the same or related
defendants raising the same or related claims
without leave of court.

(d) The court may sua sponte dismiss an
action that is filed in violation of a court order
entered under subdivision (c).

Note: A pro se party is not barred from
raising counterclaims or claims against other
parties in litigation that the pro se plaintiff
did not institute.

(e) The provisions of this rule do not
apply to actions under the rules of civil
procedure governing family law actions.

Pa.R.C.P. 233.1.

In her first issue, Appellant argues our Supreme Court lacked authority to promulgate Rule 233.1. Appellant submits Rule 233.1 violates her substantive rights. Appellant avers Rule 233.1 is unconstitutionally void. Appellant contends what matters are "related" and "resolved" under Rule 233.1 is unclear. Appellant concludes that this Court should reverse the order dismissing her amended complaint and remand for further proceedings. We disagree.

"We review the constitutionality of a rule of civil procedure de novo and our scope of review is plenary." *Coulter v. Lindsay*, 159 A.3d 947, 952-53 (Pa.Super. 2017) (citing *Laudenberger v. Port Auth. of Allegheny Cty.*, 496 Pa. 52, 436 A.2d 147, 150-57 (1981)).

The Pennsylvania Constitution provides that our "Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts. . . if such rules are consistent with this Constitution and neither abridge, enlarge[,] nor modify the substantive rights of any litigant." Pa. Const. Art. IV, § 10(c). Our Supreme Court has held that when determining if a rule is substantive or procedural in nature, we must . . . seek to determine the purpose of the rule in order to properly characterize its nature.

Coulter, supra at 953 (some internal quotation marks and citations omitted). Those Rules of Civil Procedure, which have the fundamental goal of uncluttering the courts, are procedural in nature.

Laudenberger, supra at 151. The Supreme Court of Pennsylvania is not "prevented from exercising its duty to resolve procedural questions merely because of a collateral effect on a substantive right." *Id.* at 155.

"The purpose behind Rule 233.1 is to ease congestion in the courts by eliminating frivolous pro se litigation. [T]hat purpose makes the rule procedural and not substantive. . . . Any effect upon [a litigant]'s substantive rights is collateral as Rule 233.1 preserves [a litigant]'s right to at least one prior substantive presentation of her claims."

Coulter, supra at 953 (internal citations omitted).

As to whether a rule of civil procedure is vague:

A vague rule offends the United States and Pennsylvania constitutions' due process clauses if it "result[s] in arbitrary and discriminatory enforcement in the absence of explicit guidelines for [its] application[.]" *In re William L.*, 477 Pa. 322, 383 A.2d 1228, 1232 (1978).

Id. at 953. Rule 233.1 does not mandate the technical identity of parties or claims imposed by res judicata or collateral estoppel; rather, it merely requires that the parties and the claims raised in the current action be "related" to those in the prior action and that those prior claims have been "resolved." Pa.R.C.P. 233.1(a). These two terms are noteworthy in their omission of the technical precision otherwise associated with claim and issue preclusion; whereas parties and/or claims are to be identical under the purview of those doctrines, Rule 233.1 requires only that they be sufficiently related to inform the trial court, in the exercise of its discretion, whether the

plaintiff's claim has in fact been considered and resolved. The drafting committee's recourse to the word "resolved" in this context is equally significant. In the Rule's requirement that the matter ha[s] been resolved pursuant to a written settlement agreement or a court proceeding, the language assures that the pro se litigant is availed of a chance to address his claim subject to the contractual guarantee of a settlement agreement or to the procedural safeguards that attend a court proceeding. It does not require, however, that the matter has progressed to a final judgment on the merits . . . nor does it require the identity of the quality or capacity in the persons for or against whom the claim is made. ... Gray v. Buonopane, 53 A.3d 829, 836 (Pa. Super. 2012), appeal denied, 619 Pa. 716, 64 A.3d 632 (2013) (some internal quotation marks and citations omitted).

Rule 233.1 is not vague so as to result in arbitrary and discriminatory enforcement. To the contrary, Rule 233.1 provides very specific guidelines for when a trial court may dismiss a pro se complaint. First, the complaint must be related to, or the same, as a previously filed complaint by the plaintiff. . . . A complaint is related when it deals with the same subject matter as a previous complaint. Similarly, Rule 233.1's requirement that the previous litigation be "resolved" is not vague. A claim is resolved when there has been a definite decision thereon.

Coulter, supra at 953-54 (internal footnote and citation omitted).

Instantly, the purpose of Rule 233.1 is procedural. See *id.* To the extent Rule 233.1 affects a

pro se litigant's substantive rights, the effect is collateral. *Id.* Therefore, our Supreme Court had the authority to promulgate Rule 233.1. *See Laudenberger, supra.* Additionally, Rule 233.1 is not vague. *See Coulter, supra.* Specifically, the words "related" and "resolved" under Rule 233.1 are not nebulous. *See id.* Accordingly, Appellant's constitutionality claim merits no relief.

In her second and third issues combined, Appellant argues the trial court *sua sponte* took judicial notice of the Allegheny County Rule 233.1 order. Appellant contends the Allegheny County order did not apply to Appellant's current action, because she filed her Dauphin County complaint before the Allegheny County court entered its order. Appellant avers the claims she raised against Appellees in the present matter were not previously resolved. Appellant concludes this Court should reverse the order dismissing Appellant's amended complaint and remand for further proceedings. We disagree.

Pennsylvania Rule of Evidence 201(b) governs judicial notice of adjudicative facts, in pertinent part, as follows:

Rule 201. Judicial Notice of Adjudicative Facts

* * *

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

- (1) is generally known within the trial court's territorial jurisdiction; or
- (2) can be accurately and readily determined from sources whose accuracy cannot

reasonably be questioned. (c) Taking notice.

The court:

(1) may take judicial notice on its own . . .

* * *

(d) Timing. The court may take judicial notice at any stage of the proceedings.

* * *

Pa.R.E. 201(b), (c), (d). "[A] court may not ordinarily take judicial notice in one case of the records of another case, whether in another court or its own, even though the contents of those records may be known to the court." 220 Partnership v. Philadelphia Elec. Co., 650 A.2d 1094, 1097 (Pa.Super. 1994).

Instantly, the trial court reasoned as follows concerning its dismissal of Appellant's amended complaint under Rule 233.1:

The Honorable John C. Reed entered an [Opinion and] Order [dated December 17, 2015,] in the Allegheny Court of Common Pleas that permanently bars [Appellant] from filing any pro se civil action in any Court of Common Pleas in Pennsylvania unless she meets certain conditions. Appellant is further barred from filing any pro se pleadings in any state court that names as a defendant any person that she had previously named as a defendant. Finally, it was ordered that all [j]udges of any Court of Common Pleas in Pennsylvania may enforce the provisions of this Order, including dismissing actions pursuant to Pa.R.C.P. 233.1(a) and imposing sanctions. Judge Reed sent this Opinion and Order to Dauphin County Court of Common Pleas President Judge Richard A. Lewis, who provided it to the undersigned for review.

* * *

[A]ppellant has a long history of filing vexatious and spurious pro se litigation against various individuals and organizations, including Appellees. All of Appellant's prior lawsuits have been dismissed or quashed by the respective courts, and, when appealed, the appellate courts have either affirmed the decisions of the trial courts, or quashed the appeals. After examining this history of vexatious litigation, Judge Reed entered an Order pursuant to Pa.R.C.P. 233.1(c) dismissing Appellant's claims and barring Appellant from pursuing additional pro se litigation against the same or related Appellees raising the same or related claims without leave of court. Thus, pursuant to Pa.R.C.P. 233.1(d), this [c]ourt could sua sponte dismiss the above-captioned action.

However, a sua sponte dismissal was not necessary because Appellees filed a Motion to Dismiss pursuant to Pa.R.C.P. 233.1(a). Upon review of the Complaint in this matter and Judge Reed's lengthy opinion that set forth a thorough history of Appellant's claims against various defendants, including Appellees, it was clear to this [c]ourt that Appellant, in the instant litigation, is raising similar claims against Appellees that have already been dismissed in prior litigation. As such, a dismissal under Pa.R.C.P. 233.1(a) was proper. . . .

(Trial Court Opinion, filed June 30, 2016, at 1-4) (citations to record omitted). The record supports the court's decision.

Here, the trial court did not take judicial notice of the Allegheny County order or use that order as dispositive. Rather, the court reviewed Judge Reed's recitation of Appellant's litigious history for background information on actions Appellant had previously initiated against Appellees and related defendants. Significantly, Appellees established in their Rule 233.1 motion to dismiss that Appellant had filed several pro se actions in both federal and state courts against Appellees in which Appellant challenged the special conditions of her probation and claimed Appellees violated her constitutional rights. Each court in those prior cases denied Appellant relief. Therefore, Appellees demonstrated Appellant's claims against them were related to claims that: (1) Appellant had raised pro se in a prior action against Appellees or related defendants; and (2) were previously resolved in a court proceeding. See Pa.R.C.P. 233.1(a), *supra*. Therefore, the trial court properly dismissed Appellant's amended complaint per Rule 233.1(a). Accordingly, Appellant's second and third issues merit no relief.

In her last issue, Appellant argues the trial court failed to consider her motion for recusal because the motion did not comply with a local rule. Appellant avers the court's refusal to consider her motion to recuse is an abuse of discretion per se. Appellant concludes this Court should reverse the order denying her motion for recusal, transfer the case to a different county, and remand for further proceedings. We disagree.

Preliminarily, "appellate briefs and reproduced records must materially conform to the requirements of the Pennsylvania Rules of Appellate Procedure.

This Court may quash or dismiss an appeal if the appellant fails to conform to the requirements set forth in the Pennsylvania Rules of Appellate Procedure." Wilkins v. Marsico, 903 A.2d 1281, 1284 (Pa.Super. 2006), appeal denied, 591 Pa. 704, 918 A.2d 747 (2007) (citing Pa.R.A.P. 2101). Rule 2119(a) provides:

Rule 2119. Argument

(a) General rule. The argument shall be divided into as many parts as there are questions to be argued; and shall have at the head of each part—in distinctive type or in type distinctively displayed—the particular point treated therein, followed by such discussion and citation of authorities as are deemed pertinent.

Pa.R.A.P. 2119(a). Importantly:

The argument portion of an appellate brief must include a pertinent discussion of the particular point raised along with discussion and citation of pertinent authorities. This Court will not consider the merits of an argument which fails to cite relevant case or statutory authority. Failure to cite relevant legal authority constitutes waiver of the claim on appeal.

In re Estate of Whitley, 50 A.3d 203, 209 (Pa.Super. 2012), appeal denied, 620 Pa. 724, 69 A.3d 603 (2013). Where an appellant fails to raise or develop her issues on appeal properly, or where her brief is wholly inadequate to present specific issues for review, this Court will not consider the merits of the claims raised on appeal. Butler v. Illes, 747 A.2d 943 (Pa.Super. 2000) (holding appellant waived claim where she failed to set forth adequate argument

concerning her claim on appeal; argument lacked meaningful substance and consisted of mere conclusory statements; appellant failed to explain cogently or even tenuously assert how trial court abused its discretion or made error of law). *See also Lackner v. Glosser*, 892 A.2d 21 (Pa.Super. 2006) (explaining arguments must adhere to rules of appellate procedure and arguments which are not appropriately developed are waived on appeal; arguments not appropriately developed include those where party has failed to cite any authority in support of contention); *Estate of Haiko v. McGinley*, 799 A.2d 155 (Pa.Super. 2002) (stating appellant must support each question raised by discussion and analysis of pertinent authority; absent reasoned discussion of law in appellate brief, this Court's ability to provide review is hampered, necessitating waiver on appeal); *Commonwealth v. Knox*, 50 A.3d 732 (Pa.Super. 2012), appeal denied, 620 Pa. 721, 69 A.3d 601 (2013) (reiterating failure to cite to legal authority to support argument results in waiver).

Instantly, Appellant presents in her brief no cogent argument or citations to relevant authority in support of her claim regarding the court's denial of her motion to recuse. Specifically, Appellant fails to cite or quote the Dauphin County Local Rule she claims the court improperly applied. Appellant does not cite or quote authority for the proposition that the court abused its discretion per se when it declined to consider her motion for recusal. Rather, Appellant cites federal case law providing a court abuses its discretion when it fails to consider evidence in support of a party's argument. Therefore, Appellant's argument falls short of the requisite standards. See Pa.R.A.P. 2119(a), *supra*; *Estate of*

Whitley, supra. Appellant's failure to present a cogent argument and cite relevant authority in support of her fourth issue constitutes waiver. See *id.*

Nevertheless, even if Appellant had properly preserved her fourth issue for our review, she would not be entitled to relief. "[A] party to an action has the right to request the recusal of a jurist where that party has a reason to question the impartiality of the court." *Goodheart v. Casey*, 523 Pa. 188, 198, 565 A.2d 757, 762 (1989). "Recusal is required wherever there is substantial doubt as to the jurist's ability to preside impartially." *In Interest of McFall*, 533 Pa. 24, 35, 617 A.2d 707, 713 (1992). "[A] judge's behavior is not required to rise to a level of actual prejudice, but the appearance of impropriety is sufficient." *Id.* at 34, 617 A.2d at 712.

It is presumed that the judge has the ability to determine whether he will be able to rule impartially and without prejudice, and his assessment is personal, unreviewable, and final. Where a jurist rules that he . . . can hear and dispose of a case fairly and without prejudice, that decision will not be overturned on appeal but for an abuse of discretion. The party requesting recusal bears the burden of producing evidence that establishes bias, prejudice, or unfairness. This evidence must raise a substantial doubt as to the jurist's ability to preside impartially.

In re Bridgeport Fire Litigation, 5 A.3d 1250, 1254 (Pa.Super. 2010) (internal citations omitted).

"Adverse rulings alone do not ... establish the requisite bias warranting recusal..." *Commonwealth v. Abu-Jamal*, 553 Pa. 485, 508, 720 A.2d 79, 90

(1998), cert. denied, 528 U.S. 810, 120 S.Ct. 41, 145 L.Ed.2d 38 (1999).

Instantly, in her motion for recusal, Appellant asserted, inter alia, the trial court was not impartial, because the court considered the Allegheny County Rule 233.1 order when it dismissed her amended complaint. Absent more, however, the trial court's decision to dismiss does not raise substantial doubt as to the court's impartiality. *See In Interest of McFall, supra*. The court properly dismissed Appellant's amended complaint under Rule 233.1, based on Appellee's motion which included Appellant's history of vexatious litigation against Appellees. *See Abu-Jamal, supra*. Appellant failed to meet her burden to establish bias in the court's decision. *See In re Bridgeport Fire Litigation*. Therefore, even if Appellant had properly preserved her claim for our review, her fourth issue would merit no relief. Accordingly, we affirm the order dismissing Appellant's amended complaint.

Order affirmed.

[1] While this appeal was pending, a panel of this Court issued an opinion in another of Appellant's pro se matters. *See Coulter v. Lindsay, 159 A.3d 947 (Pa.Super. 2017)*. In the opinion, the Court observed Appellant had initiated pro se at least 91 frivolous cases in this Court and the federal courts in Pennsylvania. *Id.* at 955. The Court sua sponte awarded the appellees attorney's fees for Appellant's repeated abuse of the judicial system. *Id.* The Court also enjoined Appellant from taking further pro se appeals in civil matters in this Court without leave of this Court. *Id.* at 956. While the injunction does not

JEAN COULTER, IN THE COURT OF COMMON
Petitioner PLEAS, DAUPHIN COUNTY
v. PENNSYLVANIA
THOMAS FORREST No. 2013-CV-4721
and DENNIS
HOERNER,
Defendants CIVIL ACTION

AND NOW, this 14th day of April, 2016, upon consideration of Defendant's Motion to Dismiss Action Pursuant to Pa.R.C.P. 233.1 and Plaintiff's response thereto, and having received an Order dated December 17, 2015 and signed by the Honorable John C. Reed, which barred Plaintiff from filing any pro se pleadings against any individual whom she has previously named as a defendant, and further ordering that any Judge of any Court of Common Pleas may enforce the provisions of this Order by dismissing legal actions pursuant to Pa.R.C.P. 233.1(a), it is hereby ORDERED that the above-captioned matter is DISMISSED with prejudice.

18a.

IN THE COURT OF COMMON PLEAS,
DAUPHIN COUNTY, PENNSYLVANIA

NO.2013-CV-4721

CIVIL ACTION

JEAN COULTER, Plaintiff

v.

THOMAS FORREST, and DENNIS HOERNER,
vvvDefendants

Pa.R.A.P. 1925(a) OPINION

Jean Coulter (hereinafter "Appellant") filed a pro se Complaint on June 3, 2013 against Thomas Forrest and Dennis Hoerner (hereinafter "Appellees"). Appellant's Complaint appears to arise out of Appellant's conviction for assault of her daughter. Appellant alleges that Appellees conspired to fraudulently impose a sentence by adding additional conditions to Appellant's probation, which resulted in Appellant's parental rights of her daughter being involuntarily terminated.

Appellees filed a Motion to Dismiss pursuant to Pa. R.C.P. 233.1 on December 21, 2015, asserting that Appellant has filed several actions against them involving the same or related matters that have since been resolved. Appellant filed a response on January 26, 2016, essentially arguing that this matter is not the same as previous matters, and the previous matters weren't truly resolved. Appellant also argues that Pa. R.C.P. 233.1 is unconstitutional.

On December 23, 2015, the Honorable John C. Reed entered an Order in the Allegheny County Court of Common Pleas that permanently bars Jean Coulter from filing any pro se civil action in any

Court of Common Pleas in Pennsylvania unless she meets certain conditions. Appellant is further barred from filing any pro se pleadings in any state court that names as a defendant any person that she has previously named as a defendant. Finally, it was ordered that all Judges of any Court of Common Pleas in Pennsylvania may enforce the provisions of this Order, including dismissing actions pursuant to Pa. R.C.P. 233.1(a) and imposing sanctions. Judge Reed sent this Opinion and Order to Dauphin County Court of Common Pleas President Judge Richard A. Lewis, who provided it to the undersigned for review.¹

Pa. R.C.P. 233.1 provides as follows:

1 A copy of Judge Reed's Opinion and Order is attached hereto as Exhibit A.

(a) Upon the commencement of any action filed by a pro se plaintiff in the court of common pleas, a defendant may file a motion to dismiss the action on the basis that

(1) the pro se plaintiff is alleging the same or related claims which the pro se plaintiff raised in a prior action against the same or related defendants, and
(2) these claims have already been resolved pursuant to a written settlement agreement or a court proceeding.

(b) The court may stay the action while the motion is pending.

(c) Upon granting the motion and dismissing the action, the court may bar the pro se plaintiff from pursuing additional pro se litigation against the same or related

defendants raising the same or related claims without leave of court.

(d) The court may *sua sponte* dismiss an action that is filed in violation of a court order entered under subdivision (c).

Pa.R.C.P. No. 233.1.

The explanatory note to this Rule states:

It has come to the attention of the Supreme Court that certain litigants are abusing the legal system by repeatedly filing new litigation raising the same claims against the same defendant even though the claims have been previously adjudicated either through settlement or through court proceedings. New Rule 233.1 provides relief to a defendant who has been subjected to this type of repetitive litigation. While attorneys are subject to the rules of disciplinary procedure, no analogous rule exists to curb this type of abuse when done by a pro se party.

Pa.R.C.P. No. 233.1 (Explanatory Comment - 2010).

This rule operates "to spare potential defendants the need to defend spurious claims, first, by allowing the expeditious dismissal of duplicative pro se actions and, second, by empowering the trial court to ban the pro se litigant's commencement of further actions against such defendants." *Gray v. Buonopane, 2012 PA Super 174, 53 A.3d 829, 835 (2012)*.

In the instant matter, Appellant has a long history of filing vexatious and spurious pro se litigation against various individuals and organizations, including Appellees. See Exhibit A. All

of Appellant's prior lawsuits have been dismissed or quashed by the respective courts and, when appealed, the appellate courts have either affirmed the decisions of the trial courts, or quashed the appeals. See Exhibit A. After examining this history of vexatious litigation, Judge Reed entered an Order pursuant to Pa. R.C.P. 233.1(c) dismissing Appellant's claims and barring Appellant from pursuing additional pro se litigation against the same or related Appellees raising the same or related claims without leave of court. Thus, pursuant to Pa. R.C.P. 233.1(d), this Court could *sua sponte* dismiss the above-captioned action.

However, a *sua sponte* dismissal was not necessary because Appellees filed a Motion to Dismiss pursuant to Pa. R.C.P. 233.1(a). Upon review of the Complaint in this matter and Judge Reed's lengthy opinion that set forth a thorough history of Appellant's claims against various defendants, including Appellees, it was clear to this Court that Appellant, in the instant litigation, is raising similar claims against Appellees that have already been dismissed in prior litigation.² As such, a dismissal under Pa. R.C.P. 233.1(a) was proper, and we respectfully suggest that our Order be affirmed.

Bruce F. Bratton, J.

² See, e.g. Exhibit A, p. 23-24 ¶5. See also Exhibits B, C, D, E, F, G, H, I, J, K, L, and M as attached to Appellees' Motion to Dismiss.

Exhibit A

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

No. GD-15-002176

JEAN COULTER, Plaintiff,

VS.

PHILIP A. IGNELZI, TIMOTHY P. O'REILLY,
RONALD W. FOLINO, TONY BAGNATO, JAMIE L.
LENZI, CIPRIANI & WERNER, and DAVID N.
WECHT, Defendants.

...

APPENDIX: "A"

...

1. Commonwealth v. Coulter, No. 727 of 2006, Butler
County ("Commonwealth v. Coulter"). ...

*The remainder of this portion of the "Appendix
(which was "illegally" attached to the Trial Court's
Order) has been omitted, as it is clearly not
applicable to Pennsylvania's Rule 233.1 – Defendants
were not involved in this matter in any manner.*

2. Coulter v. Corbett, 10cv01065, US Dist. Ct., WD
Pa. ("Coulter v. Corbett").

...

On July 22, 2010, Coulter filed a Petition for Habeas
Corpus claiming that Judge Shaffer's Order
modifying the conditions of her probation was
unconstitutional as a violation of the "double
jeopardy" clause of the US Constitution. On
November 23, 2011, District Court Judge Joy
Flowers Conti dismissed Coulter's Petition as lacking
merit. ...

*The remainder of this portion of the "Appendix
(which was "illegally" attached to the Trial Court's
Order) has been omitted, as it is clearly not*

applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

3. Coulter v. Bd. of Probation and Parole-Office of Open Records Appeal ("Coulter v. Parole Board-OOR").

...

On October 6, 2011, while on probation, Coulter filed a prose Right-To-Know Law (RTKL) request with the Board of Probation and Parole (the Parole Board) requesting that the Parole Board provide all Parole Board records relating to the Home Plans she had submitted to the Parole Board. ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

4. Coulter v. Studeny, 1 2cv00060, US Dist. Ct., W切 Pa. ("Coulter v. Studeny").

...

On January 17, 2012, Coulter filed a Federal lawsuit against and Jeremy Stewart, Dennis Hoerner, Thomas Forrest, and Thomas Eidenmuller (all of whom were agents or supervisors of the Pa. Bd. of Probation and Parole), Asst. DA Studeny, and Judge Shaffer claiming that the defendants had violated her rights under Section 1983 when they conspired to "resentence" her by amending her probation to: add a "no-contact" provision prohibiting Coulter from attempting to contact her child, A.C. ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – the Claims presented in the Instant Matter (related to Witness

intimidation) were not involved in this matter in any manner.

5. Coulter v. Levenson, GD-14-001506, Allegheny County ("Coulter v. Levenson").

...

At the request of Parole Agent Forrest, Agent, Supervisor Hoerner, and Asst. DA Studeny, Judge Shaffer amended Coulter's state supervised probation, imposing a condition that Coulter not attempt to contact her minor daughter, A.C. ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – the Claims presented in the Instant Matter (related to Witness intimidation) were not involved in this matter in any manner.

6. Coulter v. Lindsay, 2015-10340, Butler County ("Coulter v. Lindsay").

...

On May 5, 2015, Coulter filed a lawsuit against Alexander Lindsay, Jr., Esq., Joseph Charlton, Esq., Patricia Lindsay, and the Lindsay Law Firm. ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

7. Coulter v. Graham, No. 2009-11581, Butler County ("Coulter v. Graham"). ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

8. Coulter v. Graham and Butler CYS, No. 2009-1 i 582, Butler County ("Coulter v. Graham and Butler CYS"). ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

9. In re: A.C., Appeal of J.C., No. DP-51-2006, Butler County ("In re: A.C., Appeal of J.C."). ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

11. Coulter v. Skwarla, No. 2011-11199, Butler County ("Coulter v. Skwarla"). ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

12. Coulter v. DPW-OOR #1 -Office of Open Records Appeal ("Coulter v. DPW-OOR#I").

...

On October 8, 2011, Coulter submitted a pro se Right-To-Know Law (RTKL) request to the Department of Public Welfare ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

13. Coulter v. DPW- OOR#2-Office of Open Records Appeal ("Coulter v. DPW- OOR#2"). ...

On December 13, 2011, Coulter submitted a prose Right-To-Know Law (RTKL) request to the Department of Public Welfare ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

14. Coulter v. Allegheny County Bar Association, GD-12-012905, Allegheny County ("Coulter v. ACBA"

... Coulter executed a fee retainer agreement with Wilder & Mahood wherein they agreed that any fee disputes would be resolved by

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

15. Coulter v Lope, GD-12-024620, Allegheny County ("Coulter,, Lope").

...

On or about December 22, 2010, Judge Doerr entered an Order directing that Coulter pay the counsel fees of Lope and Smith ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

16. Coulter v. Ramsden, GD-13-000579, Allegheny County Coulter v. Ramsden"),

...

Coulter retained the services Mary Suzanne Ramsden, Esq. and Stephanie Alldersolt, Esq., both of the Law firm of Raphael, Ramsden ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

17. Coulter v Doerr, GD-13-000630, Allegheny County ("Coulter v. Doerr").

This case is a progeny of In re Interest of A.C., a dependency proceeding involving A.C. On September 23, 2009, ... Coulter was represented by Tod Zwickl, Esq. and Deborah Erbsstein, Esq.

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

18. Coulter v Gale, GD-13-000738, Allegheny County ("Coulter v. Gale"):

...

Coulter retained the services of Christine Gale, Esq. of the law firm Fra11k, Gale, Bails, Murcko & Pocrass. ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

19. Coulter v Ramsden, GD-13-000774, Allegheny County ("Coulter v. Ramsden").

...

Ramsden and Anderson and their law firm, Raphael, Ramsden & Beyers, inter alia, failed to prevent evidence ...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

20. Coulter v. Mahood, GD-13-745, Allegheny County ("Coulter v. Mahood")

... hiding and refusing to disclose A.C.'s medical records, journal (diary) entries, and correspondence;

...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

21. Coulter v. Butler CYS, No. 2013CV589, Dauphin County ("Coulter v CYS").

...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

22. Coulter v. Mahood, No. 15-481, Lycoming County ("Coulter v. Mahood")

...

The remainder of this portion of the "Appendix (which was "illegally" attached to the Trial Court's Order) has been omitted, as it is clearly not applicable to Pennsylvania's Rule 233.1 – Defendants were not involved in this matter in any manner.

JEAN COULTER
Pro Se Plaintiff

v.

IN THE COURT OF
COMMON PLEAS
DAUPHIN COUNTY,
PENNSYLVANIA

THOMAS FORREST No. 2013 CV 4721-CV
and DENNIS HOERNER,
Defendants

MOTION FOR RECONSIDERATION
and MOTION FOR RECUSAL

NOW COMES, Pro Se Plaintiff, Jean Coulter and files Motion For Reconsideration and Motion For Recusal, requesting The Court to Recuse and Order that the prior Order of Court, dated April 14, 2016 (docketed April 15), which dismisses this matter with prejudice, be voided in order to permit a truly unbiased Judge to make all decisions in this case.

In support of these Requests, Coulter states:

1.) The Court has claimed to have taken Judicial Notice of a matter from the Records of an unspecified case, specifically "an Order dated December 17, 2015 and signed by The Honorable John C. Reed" - **and no such Order exists anywhere in the Record of this case.** Such Judicial Notice is specifically not permitted to be taken. by any Judge, in any of Pennsylvania's courts. As explained in CALLERY et al. v. Blythe Twp. Mon. Auth., 432 Pa. 307 - Pa: Supreme Court 1968 :

"a court may not ordinarily take judicial notice in one case of the records in another case even though the case arose in the same court and the contents of those records are known to the court. See, e.g., *Naffah v. City Deposit Bank*, 339 Pa. 157, 13 A. 310*310 2d 63 (1940)."

2.) The Court in this case has failed to provide sufficient specifics about the supposed Order which would justify The Court's determination that the December 2015 Order (in another (unspecified) case) which would permit this matter to be dismissed by This Court, *sua sponte*, at this time.

3.) However, what The Court has stated is that the Order was signed in December 2015, and yet it somehow this supposed Order of another Common Pleas Court Judge somehow grants the authority to "any Judge of any Court of Common Pleas" to "enforce the provisions" of the December 2015 Order in the unspecified case, to dismiss a different action, "pursuant to Rule 233.1(a)".

4.) However, Rule 233.1(a) in no manner would permit this action, as section (a) of Rule 233.1 merely states:

"(a) Upon the commencement of any action filed by a pro se plaintiff in the court of common pleas, a defendant may file a motion to dismiss the action on the basis that:

(1) the pro se plaintiff is alleging the same or related claims which the pro se plaintiff raised in a prior action against the same or related defendants, and

(2) these claims have already been resolved pursuant to a written settlement agreement or a court proceeding.

5.) Defendants in this case have never alleged the existence of any Order which could be described in the manner in which The Court has described the Order signed by Judge Reed (in some unspecified case) - or any other Order which would justify This

Court's *sua sponte* dismissal pursuant to Rule 233.1 either. Thus, no Order by any Judge (in any Pennsylvania court), can grant the authority to any Judge in Dauphin County (or elsewhere), to dismiss any case, on the basis of Rule 233.1(a) - when Defendants have failed to place a Motion to this effect before the Court.

6.) The Court has never mentioned the supposed Order being expressly retroactively applicable. As such, if the supposed Judge Reed's Order might otherwise be applicable in this situation, because it was not signed until years after the filing of this matter, the alluded-to Order would have no effect on this case.

7.) Thus, absent a Motion to that effect filed by Defendant(s) in this case, The Court has acted in an entirely unauthorized manner - acting instead as Counsel for Defendants, and for the obvious benefit of Defendants in this case. Thus, these actions by The Court in this case, when learned of by "any reasonable man", would undoubtedly cause that "reasonable man" to doubt the ability of The Court to rule impartially in this case.

8.) Further, Rule 233.1 is Unconstitutional, both As Written and especially, and As Applied in this case - and Coulter hereby informs both the Pennsylvania Attorney General's Office as well as Pennsylvania's Court Administrator, of Coulter's challenge to the Unconstitutionality of Rule 233.1.

WHEREFORE, because The Court's actions display such significant biases (which would cause a reasonable man" to doubt the Judge's impartiality) - Recusal is required, along with the issuance of an Order that Voids the Order of April 14, 2016 (which was docketed on April 15), in order to

permit a truly unbiased Judge to make all
determinations in this matter.

Respectfully Submitted,
Jean Coulter, Pro Se Plaintiff

(The accompanying Certificate of Service shows
appropriate notice to the Office of Pennsylvania's
Attorney General.)

COMMON PLEAS
OF DAUPHIN COUNTY
Civil Division
No. 20 13-CV-04721-CV

JEAN COULTER, PLAINTIFF

v.

THOMAS FORREST, DENNIS HOERNER,
DEFENDANTS

BRIEF IN SUPPORT OF
MOTION TO DISMISS ACTION
PURSUANT TO P.A. R. CIV. P. 233.1

I. RELEVANT FACTS

Defendants, Thomas Forrest and Dennis
Hoerner, filed a motion to dismiss pursuant to Pa.R.
Civ. P. 233.1 on December, 2015. This motion was
filed due to plaintiff's history of repeated and
frivolous filings against defendants in the U.S.
District Court for the Western District of
Pennsylvania, the Pennsylvania Supreme Court, and
the Pennsylvania Commonwealth Court.

The plaintiff, Jean Coulter ("Coulter"), is a *pro se* litigant who initiated this action against defendants and others by filing a complaint in this Court on or about June 3, 2013, and filing a subsequent amended complaint on July 15, 2013.

The genesis of Coulter's allegations originate in her 2007 plea of *nolo contendere* in the Court of Common Pleas of Butler County and subsequent imprisonment of 15 to 30 months incarceration, followed by 36 months of special probation, for committing the crime of aggravated assault. (Exhibit A, page 4). The victim of the aggravated assault was Coulter's daughter.

Coulter claims that defendants violated her rights by illegally placing restrictions on Coulter's liberty in placing conditions of probation on her in 2010. (Exhibit A, pages 4-5). Coulter, however, has previously filed a multitude of complaints against defendants in other courts within the Commonwealth of Pennsylvania and in the Western District of Pennsylvania. As with this case, each of those actions also involved Coulter's allegations that the criminal proceedings in Butler County were somehow unjust, that various defendants conspired to deprive her of her rights, and that she is entitled to monetary relief in excess of \$100,000,000.

Coulter initiated actions against defendants Forrest and Hoerner in the United States District Court for the Western District of Pennsylvania, the Supreme Court of Pennsylvania, all of which arose out of the Butler County criminal proceedings and the termination of her parental rights (Exhibits B M).

Each of Coulter's complaints against defendants have been dismissed with prejudice.

First, defendants Forrest and Hoerner were names as respondents in a habeas corpus petition filed in the United States District Court for the Western District of Pennsylvania, in which Coulter claimed defendants violated her constitutional rights by imposing special conditions of probation on her that infringed on her fundamental right to parent a child. (Exhibit B, pgs. 9, 11). On October 11, 2011, Federal Magistrate Judge Robert C. Mitchell issued a report and recommendation that the petition for habeas corpus be dismissed as the special conditions imposed on her did not violate her constitutional rights. (Exhibit C). Thereafter, on November 23, 2011, United States District Judge Joy Flowers Conti issued a decision adopting the report and recommendation of Magistrate Judge Mitchell and dismissed the petition for writ of habeas corpus as failing to state a claim for habeas relief. (Exhibit D). Subsequently, by a decision rendered February 8, 2012, the United States Court of Appeals for the Third Circuit denied Coulter's request for a certificate of appealability to appeal the dismissal of her habeas corpus petition. (Exhibit E).

Second, on June 1, 2010, defendants were named as respondents in an application for leave to file original process and an emergency petition for habeas corpus relief filed in the Pennsylvania Supreme Court, in which Coulter challenged the special conditions of her probation imposed by defendants. (Exhibit F, pgs. 3-10, 12). By a per curium order issued July 20, 2012, the Pennsylvania Supreme Court denied Coulter's emergency petition for a writ of habeas corpus. (Exhibit G).

Third, on or about October 11, 2010, Coulter filed an amended petition for mandamus relief in the

Commonwealth Court naming defendants as respondents, claiming once again that defendants illegally imposed special conditions of probation on her. (Exhibit H, ~ 6, 9, 10, 13, 15, 16). By an opinion and order issued October 22, 2010, the Commonwealth Court sustained Forrest and Hoerner's demurrer and dismissed the petition as being without merit. (Exhibit I).

Fourth, on January 15, 2012, Coulter filed a §1983 civil rights action naming Forrest and Hoerner as defendants. (Exhibit J). In her complaint, she alleged that Forrest and Hoerner violated her constitutional rights by imposing special conditions of probation on her restricting her travel. (Exhibit J, pg. 2-5). Coulter requested \$100,000,000.00 in damages from Forrest and Hoerner. (Exhibit J at page 6). On September 21, 2012, Federal Magistrate Judge Robert C. Mitchell issued a report and recommendation that the motion to dismiss filed by defendants be granted and that the action be dismissed. (Exhibit K) On October 21, 2012, United States District Court Judge Cathy Bissoon issued a memorandum order adopting Judge Mitchell's report and recommendation and granting the Defendants' motion to dismiss the civil action, finding that Coulter has a "history of filing frivolous duplicative cases regarding substantially the same subject matter[.]" (Exhibit L). On June 10, 2013, the United States Court of Appeals for the Third Circuit affirmed the dismissal of Coulter's complaint against the defendants. (Exhibit M).

II. PROCEDURAL HISTORY

On June 3, 2013, Coulter filed the instant action with this Honorable Court. On July 15, 2013, an amended complaint was filed along with a motion

for special relief. On July 16, 2013, the Honorable Lawrence F. Clark, Jr. issued an order stating the motion will not be entertained. On August 1, 2013, Defendants filed preliminary objections to the amended complaint. On September 6, 2013, Coulter filed a certificate of readiness with this Court as well as a corrected motion for special relief. On September 11, 2013, Judge Clark issued an order stating that the certificate of readiness would not be entertained.

On August 20, 2015, this Court ordered Coulter to either file in the Prothonotary's office marking the case settled, discontinued or ended or an Administrative Application for a Status Conference. On September 25, 2015, Coulter filed a praecipe for an administrative application for a status conference. On October 6, 2015, this Court ordered that an administrative application for a status conference will not be entertained. On November 6, 2015, Coulter filed a revised administrative application for a status conference. On November 20, 2015, this Court ordered that a status conference would be held in chambers on January 8, 2016.

III. ISSUE PRESENTED

SHOULD THIS COURT DISMISS COULTER'S COMPLAINT BECAUSE THE CLAIMS ASSERTED BY HER HAVE BEEN RESOLVED THROUGH PRIOR COURT PROCEEDINGS AND THE FILING OF THE CURRENT MATTER IS AN ABUSE OF THE LEGAL SYSTEM?

IV. ARGUMENT

THIS COURT SHOULD DISMISS COULTER'S COMPLAINT PURSUANT TO PA. R. CIV. P. 233.1

BECAUSE HER CLAIMS HAVE BEEN RESOLVED
THROUGH PRIOR JUDICIAL PROCEEDINGS
AND THE INSTANT COMPLAINT IS AN ABUSE
OF THE JUDICIAL SYSTEM.

On April 8, 2010, the Supreme Court of Pennsylvania adopted Rule of Civil Procedure 233.1, in order to quell the abuse of the legal system engaged in by some pro se plaintiffs, as these plaintiffs were not subject to the disciplinary procedures applicable to members of the Bar. Rule 233.1 provides:

(a) Upon the commencement of any action filed by a pro se plaintiff in the court of common pleas, a defendant may file a motion to dismiss the action on the basis that

(1) the pro se plaintiff is alleging the same or related claims which the pro se plaintiff raised in a prior action against the same or related defendants, and

(2) these claims have already been resolved pursuant to a written settlement agreement or a court proceedings.

(b) The court may stay the action while the motion is pending.

(c) Upon granting the motion and dismissing the action, the court may bar the pro se plaintiff from pursuing additional pro se litigation against the same or related defendants raising the same or related claims without leave of court.

The comment to this rule explains the rationale for the rule. The comment specifically provides that:

It has come to the attention of the Supreme Court that certain litigants are abusing the legal system by repeatedly filing new litigation

raising the same claims against the same defendant even though the claims have been previously adjudicated either through settlement or through court proceedings. New Rule 233.1 provides relief to a defendant who has been subject to this type of repetitive litigation. While attorneys are subject to the rules of disciplinary procedure, no analogous rule exists to curb this type of abuse when done by a *pro se* party.

The Supreme Court obviously recognized the problems associated with the manner in which certain *pro se* litigants treated the Courts of Pennsylvania. Accordingly, the Supreme Court took affirmative measures to provide trial courts with the means of protecting itself and defendants of such abuse by such *pro se* plaintiffs.

In *Gray v. Buonopane*, 53 A.3d 829 CPa. Super. 2012), a panel of the Superior Court analyzed Rule 233.1 and reasoned that

[R]ule 233.1 was promulgated by our Supreme Court in 2010 to stem a noted increase in serial lawsuits of dubious merit filed by *pro se* litigants disaffected by prior failures to secure relief for injuries they perceived but could not substantiate. Accordingly the drafting committee constructed the Rule with attention to potential manipulation of the legal process by those not learned in its proper use, seeking to establish accountability for *pro se* litigants commensurate with that imposed upon members of the Bar. Thus, the Rule operates to spare potential defendants the need to defend spurious claims, first, by allowing the expeditious dismissal of duplicative *pro se*

actions and, second, by empowering the trial court to ban the *pro se* litigant's commencement of further actions against such defendants.

Id. at 835. In that case, plaintiffs were involved in litigation with defendants for a period of eight years concerning foreclosure proceedings on plaintiffs' property. After the property was foreclosed on, and the property sold at Sheriff's sale, plaintiff initiated additional civil actions, suing every person and entity in any way connected to the foreclosure proceedings. The Superior Court, on appeal, affirmed the dismissal of plaintiffs' lawsuits pursuant to Rule 233.1 - concluding that Rule 233.1 only requires that the *pro se* plaintiff allege the same or related claims against the same or related defendants, and that those claims have been previously resolved pursuant to a settlement agreement or court proceeding. *Id.* at 836.

Most recently, in *Coulter v. Ramsden*, 94 A.3d 1080 (Pa. Super. 2014), the Superior Court affirmed the Allegheny County Court of Common Pleas dismissal of Jean Coulter's lawsuit - pursuant to Pa.R.A.P. 233.1 against defendants who she claims unlawfully terminated her parental rights to the child who was the victim of her crimes. *Id.* at 1083. In *Coulter*, the Superior Court held that Coulter was properly barred by Pa.R.A.P. 233.1 from raising similar causes of action against the same or related defendants as a *pro se* plaintiff. *Id.* at 1088.

In the instant case, Coulter is again filing another frivolous and duplicitous lawsuit against defendants who she claims unlawfully took away her right to see her child - the victim of her crimes - by placing a condition on her probation that she not

contact her victim. As previously discussed, Coulter filed actions against defendants Forrest and Hoerner in the Western District of Pennsylvania (twice), the Pennsylvania Supreme Court, and Commonwealth Court regarding the probation conditions imposed upon her restricting access to her victim. See Exhibits B, C, D, E, F, G, H, I, J, K, L, M. The cause of action filed against defendants in those cases is the same cause of action filed in the instant case. As such, this Court should bar Coulter from filing this frivolous lawsuit and any additional pro se lawsuits against Defendants Forrest and Hoerner that are simply filed in order to harass these Defendants.

WHEREFORE, Defendants Forrest and Hoerner respectfully request that their Motion to Dismiss be granted.

Respectfully submitted,
Office of General Counsel
John C. Manning
Assistant Counsel

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY**

Civil Division

No. 2013-CV-D4721-CV

JEAN COULTER, PLAINTIFF

v.

THOMAS FORREST, DENNIS HOERNER,
DEFENDANTS

**MOTION TO DISMISS ACTION
PURSUANT TO PA. R. CIV. P.233.1**

AND NOW, comes these defendants, THOMAS FORREST and DENNIS HOERNER, by and through their counsel, John C. Manning, Assistant Counsel. Pennsylvania Board of Probation and Parole, and files their Motion to Dismiss Pursuant to Pa. Civ. P. 233.1, as follows:

1. Plaintiff is Jean Coulter ("Coulter"), a pro se litigant who initiated this action against the defendants and others by the filing of her complaint on or about June 3, 2013, and subsequent filing of an amended complaint on July 15, 2013.

2. Coulter is a former probationer who was previously supervised by agents of the Pennsylvania Board of Probation and Parole ("Board").

3. The defendants, Thomas Forrest ("Forrest") and Dennis Hoerner ("Hoerner"), are employees of the Board who previously supervised Coulter during her period of probation.

4. In her amended complaint filed on July 15, 2013, Coulter claims that Forrest and Hoerner violated her rights by illegally placing restrictions on Coulter's liberty in their placing of conditions of probation on her in 2010. Amended Complaint at pg.

4. A copy of the amended complaint filed with this Court is attached at Exhibit A.

5. Prior to filing, the instant matter, Coulter had filed actions in Federal Court, the Pennsylvania Superior Court and Pennsylvania's Commonwealth Court against Forrest and Hoerner alleging the same claims she now files in this lawsuit.

6. First, Defendants Forrest and Hoerner were named as respondents in a habeas corpus petition filed in the United States District Court for the Western District of Pennsylvania on July 22, 2010. A copy of the petition is attached as Exhibit B.

7. This petition claims that Respondents violated her constitutional rights, by imposing special conditions of probation on her that infringed on her fundamental right to parent her child. See Exhibit B at page 9, 11.

8. On October 11, 2011, Federal Magistrate Judge Robert C. Mitchell issued a report and recommendation recommending that the petition for habeas corpus be dismissed as the special conditions imposed on her did not violate her constitutional rights. A copy of Judge Mitchell's report is attached as Exhibit C.

9. On November 23, 2011, United States District Judge Joy Flowers Conti issued a decision adopting the report and recommendation of Magistrate Judge Mitchell and dismissed the petition for writ of habeas corpus as failing to state a claim for habeas relief. A copy of Judge Conti's memorandum and order is attached as Exhibit D.

10. By a decision rendered February 8, 2012, the United States Court of Appeals for the Third Circuit denied Coulter's request for a certificate of appealability to appeal the dismissal of her habeas corpus petition. A copy of the Third Circuit's order is attached as Exhibit E.

11. Second, on June 1, 2010, Forrest and Hoerner were named as Respondents in an application for leave to file original process and emergency petition for writ of habeas corpus filed in the Pennsylvania Supreme Court. A copy of the petitions are attached collectively as Exhibit F.

12. In her petitions, Coulter challenges the special conditions of probation imposed upon her by Forrest and Hoerner. See Exhibit F at pages 3-10, 12.

13 . By a per curium order issued, July 20, 2010, the Pennsylvania Supreme Court denied Coulter's emergency petition for writ of habeas corpus. A copy of the Supreme Court's order is attached as Exhibit G.

14. On or about October 11, 2010, Coulter filed an amended petition for mandamus in the Commonwealth Court naming Forrest and Hoerner as Respondents. A copy of the petition filed in the Commonwealth Court is attached as Exhibit H.

15. Coulter's petition once again challenged the special conditions of probation imposed upon her by the Respondents. See Exhibit H at ¶6, ¶9, ¶10, ¶13, ¶14, ¶15, ¶16.

16. By an opinion and order issued October 22, 2010, the Commonwealth Court sustained the Respondents' demurrer and dismissed the petition as being without merit. A copy of the Commonwealth's opinion and order is attached as Exhibit I.

17. On or about January 15, 2012, Coulter filed a §1983 civil rights action naming Forrest and Hoerner as defendants. A copy of the complaint is attached as Exhibit I.

18. Coulter's complaint claimed that Hoerner and Forrest violated her constitutional rights as they did not have the authority to impose special conditions of probation on her restricting her travel. See Exhibit J at pages 2-5.

19. Coulter requested \$100,000,000.00 dollars in damages from the Defendants. See Exhibit J at page 6.

20. On September 21, 2012, Federal Magistrate Judge Robert C. Mitchell issued a report and recommendation recommending that the motion to dismiss filed by the Defendants be granted and

that the action be dismissed. A copy of the report and recommendation is attached as Exhibit K.

21. On October 12, 2012, United States District Judge Cathy Bissoon issued a memorandum order adopting Judge Mitchell's report and recommendation and granting the Defendants' motion to dismiss the civil action, finding that Coulter has a "history of filing frivolous duplicative cases regarding substantially the same subject matter [.]". A copy of Judge Bissoon's order is attached as Exhibit L.

22. On June 10, 2013, the United States Court of Appeals for the Third Circuit affirmed the dismissal of Coulter's complaint against the Defendants. A copy of the Third Circuit's per curiam opinion and order is attached as Exhibit M.

23. Each of Coulter's aforementioned filings have been dismissed with prejudice.

24. Pennsylvania Rule of Civil Procedure 233.1(a) provides:

(a) Upon the commencement of any action filed by a pro se plaintiff in the Court of Common Pleas, a defendant may file a motion to dismiss the action on the basis that

- (1) the pro se plaintiff is alleging the same or related claims which the pro se plaintiff raised in a prior action against the same or related defendants, and
- (2) these claims have already been resolved pursuant to a written settlement agreement or a court proceeding.

(b) The court may stay the action while the motion is pending.

(c) Upon granting the motion and dismissing the action, the court may bar the pro se plaintiff from pursuing additional pro se litigation against the same or related defendants raising the same or related claims without leave of court.

25. Rule 233.1 became effective on April 8, 2010, prior to any of the above-mentioned actions filed by Coulter.

26. The explanatory comment following Rule 233.1 provides:

It has come to the attention of the Supreme Court that certain litigants are abusing the legal system by repeatedly filing new litigation raising the same claims against the same defendant even though the claims have been previously adjudicated either through settlement or through court proceedings. New Rule 233.1 provides relief to a defendant who has been subject to this type of repetitive litigation. While attorneys are subject to the rules of disciplinary procedure, no analogous rule exists to curb this type of abuse when done by a *pro se* party.

27. Rule 233.1 was drafted and adopted specifically to combat the kind of frivolous, abusive and vexatious behavior demonstrated by Coulter.

28. Coulter is obviously just seeking to again litigate issues already decided by the Courts regarding the imposition of probation conditions imposed by Forrest and Hoerner, and will continue to do so until she is prohibited by Court order.

29. As such, Defendants Forrest and Hoerner seek dismissal of this action as to them pursuant to Rule 233.1.

30. Pursuant to local rule 208.3(a)(1)(b)(i), Defendants ask for argument on this motion.

31. Pursuant to local rule 208.3(a)(1)(b)(ii), discovery is not needed in this case.

32. Defendants Forrest and Hoerner also ask this Honorable Court for a stay of this civil action, including the status conference scheduled for January 8, 2015, pending the disposition of this motion.

WHEREFORE, Defendants Forrest and Hoerner respectfully request that their Motion to Dismiss be granted.

Respectfully submitted.,
Office of General Counsel
John C. Manning
Assistant Counsel

Date Filed: December 21, 2015

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF
DAUPHIN COUNTY, PENNSYLVANIA
Case No. : 2013-CV- 4721CV
CIVIL RIGHTS ACTION

JEAN COULTER, Plaintiff

v.

THOMAS FORREST, and DENNIS HOERNER,
Defendants

JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR CIVIL ACTION

1.) Plaintiff, JEAN COULTER ("Coulter"), is a citizen of the United States. Current mailing address:

3000 Chestnut Street, P.O. Box 8094
Philadelphia, PA 19101-8094

2.) Defendant, THOMAS FORREST ("Forrest"), is a citizen of the United States. Current mailing address :

Pennsylvania Board of Probation and Parole
1101 South Front Street
Harrisburg, PA 17104

This action is being filed against Defendant in his individual or personal capacity.

3.) Defendant, DENNIS HOERNER ("Hoerner"), is a citizen of the United States. Current mailing address :

Pennsylvania Board of Probation and Parole
1101 South Front Street Harrisburg, PA 17104

This action is being filed against Defendant in his individual or personal capacity.

FACTS

1.) Members of the Board of Probation and Parole entered into a Criminal Conspiracy to violate Coulter's Civil Rights (first discovered by Coulter in late January 2010). The Criminal Actions began with fraudulent and illegal "imposition of Sentence"" by a Probation Officer in Crawford County and continued with similar actions Probation Officers Defendants FORREST and HOERNER, in Butler County. Motivations for their actions were unknown at that time.

Defendants Forrest and Hoerner continued to fraudulently "impose Sentence" adding additional Conditions to the Sentence of Probation which they, themselves had illegally imposed on January 26, 2010 - despite Official Complaints lodged against these Probation Officers (employees of the Pennsylvania Board of Probation and Parole), with their superiors. These prior actions are the result of civil and criminal conspiracies by the Defendants in this action, and thus prove a pattern of crimes by these Defendants, "under the color of law" and provide evidence of the depth of criminal activities "accepted" by the "authorities" on both the State and Federal levels - and support claims that the actions by these Defendants would certainly "shock the conscience".

2.) One of the Conditions of the illegally and fraudulently imposed Sentence of Probation, produced by this Criminal Conspiracy (in January 2010), included the Condition that Coulter must obtain a Mental Health Evaluation, and provide consent for full disclosure and access to the Evaluator.

3.) During testimony (on October 15, 2010), by the Evaluator in a matter concerning custody of Coulter's daughter, Coulter learned that the Evaluator had been contacted by Defendants Forrest and Hoerner (who identified themselves as Coulter's Probation Officers), following completion of the evaluation, but prior to court that day.

4.) At the time of this contact with the Evaluator, Defendants Forrest and Hoerner fraudulently claimed to be disclosing what would be confidential information, had their disclosures represented factually accurate circumstances, rather

than half-truths and deceptions. By releasing what was supposed to be confidential information, Coulter's Fundamental Right to Privacy was violated by these defendants. Coulter believes that Defendants also released Coulter's Mental Health Evaluation to other Parties, without authorization by either Coulter / the Evaluator, or court order, although Coulter has not yet uncovered conclusive evidence of these additional crimes.

While Defendant Hoerner, apparently is still employed in the Butler Sub-Office, Defendant Forrest left his position in the Butler Sub-Office at some point during November or December 2010. Coulter is not certain of Defendant Forrest's current place of employment and the Board has previously refused to release information as to Forrest's home address. Additionally, Coulter has been advised by staff of both the Butler Sub-Office, and employees of Human Resources for the Board, that Complaints for Civil Action should be served on both Defendants at the Board's address in Harrisburg. Coulter believed that such service would be permitted as, on June 6, 2013, service of the Complaint (for each Defendant) was made "at any office or usual place of business of the defendant" ... to "the person for the time being in charge", pursuant to instructions provided by Defendants' current or former employer, PA Board of Probation and Parole.

5.) Defendants' "release of information" involved both "facts" relayed verbally (to Evaluator, whose place of business is outside of Butler County), as well as those presented by presentation of certain written documents to the evaluator - under the guise of Defendants' certainty of the factual accuracy of those documents. When these "facts" were released

by Hoerner and Forrest (perhaps as part of a conspiracy involving numerous other members of the "Justice System and "Law Enforcement" in Butler County) Defendants were well aware that the documents contained "facts" concerning alleged actions by Coulter - which never occurred, and indeed, in several circumstances were either previously recanted by the complainant and/or shown to have been actually physically impossible to have ever occurred! Despite Defendants' certain knowledge of the "inaccuracy" of the "facts" they were providing to the evaluator, neither Defendant made any effort to explain that at least significant portions of the "information" which they were providing, was known to be untrue!

6.) Thus, Defendants clearly had decided to enter into a conspiracy to tamper with testimony which was to be presented in hearings in the Court of Common Pleas, in Butler County, Pennsylvania - a crime under both Federal and State Statutes!

7.) Despite the clear and obvious violation of criminal Statutes of the Commonwealth of Pennsylvania, the Office of the Attorney General of Pennsylvania has stubbornly refused to prosecute, and instead is now spending taxpayer dollars to defend these criminals from civil responsibility for their criminal acts "under the color of law". It is believed that Defendants' expectation and even knowledge of this clearly improper attitude by the Prosecutors within Pennsylvania (and indeed the Federal Prosecutors as well), is why these Defendants agreed to enter into this criminal conspiracy!

8.) Neither the Evaluator nor Defendants informed Coulter of their contact - and it is believed

that this was upon instruction by Defendants to evaluator to conceal this information. Thus Coulter was completely unaware of, and unprepared for the effects that this contact would have on the Evaluation (which was then provided to the court in a matter in Butler County which concerned custody of Coulter's daughter). Because of Defendants' obvious decision to conceal this contact from Coulter, Coulter was left with a clearly tainted witness's testimony during the hearing on Termination of Coulter's Parental Rights. And as Coulter had no opportunity to counter this clearly tainted testimony, it is believed that Defendants were acting in conspiracy with others during the entire time from their first "imposition" of this Condition, up to and through the time of the testimony in Court in October 2010 for the purpose of facilitating the admission of this particular tainted testimony.

9.) As Coulter had called the Mental Health Evaluator during her case (unaware of the **Witness Tampering** which had occurred), the Trial Court was permitted to accept as completely truthful the testimony from this witness - despite the fact that the testimony was clearly "inaccurate" due to the criminal actions of these Defendants (with perhaps the cooperation of yet unnamed individuals). These acts of **Witness Tampering** are clearly illegal, and such actions "under the color of law" are specifically the behaviors intended to be addressed by an actions under 42 U. S. C. § 1983. (See **Briscoe v. LaHue**, 460 US 325 - Supreme Court 1983.)

10.) Coulter's Parental Rights were subsequently terminated, at least in part due to the tainted testimony of a witness whom Defendants Hoerner and Forrest had clearly tampered with.

And, because of the Termination of her Parental Rights, Coulter Fundamental Rights of a Parent as well Coulter's First Amendment Freedoms (Freedom of Speech and Freedom of Association) with respect to her daughter, both directly and indirectly - have clearly been violated - due to the actions "under the color of law" by these Defendants.

CAUSE OF ACTION

I allege that I have been injured and my constitutional rights, privileges or immunities have been violated as a result of these acts of Slander, Libel, Fraud, Defamation, False Imprisonment, Breach of Implied Contract, Breach of Contract, Intentional Infliction of Emotional Distress, Injuries resulting from criminal actions (including Criminal conspiracy, Honest Services Fraud, Color of Law Civil Rights Violations, Racketeering, Falsification of Records, Victim and/or Witness Intimidation, Civil Conspiracy, Hate Crimes, Criminal Coercion, Abuse of Process, Criminal Mischief and Forgery - which result from the Criminal Conspiracy by these Probation Officers and perhaps others), Violation of Pennsylvania's Right to Housing, Violating Freedom of Association - and that the following facts form the basis for my allegations:

a.) Additional injuries caused by Violation of Fundamental Rights of a Parent, Violation of First Amendment Rights of Freedom of Speech and Freedom of Association and Violation of Eighth Amendment protections against Cruel and Unusual Punishment.

Supporting Facts : The mis-information and "half-truths" provided to the Mental Health Evaluator by

Defendants Forrest and Hoerner, caused the Evaluator to testify that she had changed her Evaluation as a result of this new "information". The changes it produced affected the Court's determinations with respect to custody of Coulter's only child - which was the obvious intent of the actions by these Defendants.

Coulter's Rights to contact with her child, were removed as a result of the hearings at which the tainted testimony was presented. Thus Defendants are responsible for violating both Coulter's Freedoms of Speech and Freedom of Association - in matters even tertiary to Coulter's daughter, as well as violating the Fundamental Rights of a Parent! And, the Court was unable to make an accurate determination of the "Child's Best Interests" due to this tainted testimony.

When Defendants first "imposed" the "Condition of Probation", requiring a Mental Health Evaluation be performed on Coulter, and later when Defendants went before the Trial Court to have the Condition "legally" imposed, they did so with the clear intention of facilitating their future involvement in the proceedings which later resulted in the Termination of Coulter's Parental Rights. Evidence of this clear intent comes from the fact that never, at any time, did Defendants, or indeed any other member of the "Justice System" or "Law Enforcement" indicate any concerns related to Coulter's current state of Mental Health. Indeed, these Defendants were aware that "governmental" evaluations of Coulter during the period immediately preceding their illegal imposition of this portion of her "Sentence", indicated that Coulter did not require Mental Health Treatment in any form! It is

apparent that Defendants were aware that those prosecuting the Termination of Parental Rights had unsuccessfully attempted to have that court Order the evaluation, and were aware that that court was indeed unable to make such an Order, based on the conditions which were present.

Thus, it is readily evident that Defendants chose to enter into the conspiracy under which this "Condition" was imposed, for the purpose of utilizing the Termination Proceedings to augment the "legal" "punishment" to which Coulter would be subjected. As this augmentation is not permitted by Criminal Statutes, and is further, clearly "cruel and unusual punishment", Defendants "color of law" actions in relation to both the imposition of and "utilization" of this tainted evaluation, in assisting in the prosecution of Termination of Parental Rights, violate Coulter's Eighth Amendment Rights.

The courts have long recognized that even in proceedings which involve only forfeiture of money, provisions must be made to restrict those proceedings by conditions related to "criminal procedural safeguards". In this case, Defendants utilized a criminal proceeding to force Coulter to both undergo an evaluation (and provide evidence against herself) and then release the results and permit "access" to the evaluator - despite the fact that this action was unrelated to any concerns as to either Coulter's current mental health status, or part of any legitimate "punishment" which the criminal court could impose. It is readily evident that Defendants did this for the purpose of affecting Coulter's Parental Rights! Similarly, it is clear that Defendants utilized this power (granted by the order from the criminal court), to impose further

punishment upon Coulter - in violation of both Statute and the United States Constitution as well. Thus, it is at least in part because of Defendant's "utilization" of the Sentence's conditions, that Coulter's Parental Rights were able to be terminated - because Defendants had used their power to criminally affect a witness's testimony. The difference between the imposition of sentence which results in "cruel and unusual punishment" and the "utilization" of that sentence by Law Enforcement, to bring about a circumstance which produces "cruel and unusual punishment" - is solely a semantic difference. In this case, Defendants took part in the illegal imposition of a sentence and then illegally (read as criminally) utilized the "power" granted by that illegal sentence for the purpose of denying Coulter her God-Given rights with respect to her child!

Certainly this Honorable Court, and society in general, must see the necessity of holding these criminals/defendants civilly responsible for the damages they have caused - and should hold these Defendants criminally responsible as well. Lacking the authority to initiate criminal action though, this Court is obligated to uphold the principles of Justice which requires it to advance the Civil Complaint against these Defendants who have utilized their legally-imposed authority, to facilitate their own criminal action - an action whose victims are the Plaintiff in this matter, and the Child.

b.) Additional injuries caused by Violation of Due Process Supporting Facts : The mis-information and "half-truths" that were provided to the Mental Health Evaluator by Defendants Forrest and Hoerner was not made known to Coulter prior to the

Evaluator's testimony. And, Coulter (who was being forced to represent herself in court at that time) was unable to correct the mistaken impressions that were provided to the Evaluator. Just as subornation of perjury violates Due Process, tampering with a witness, to induce invalid conclusions by an expert witness, violates Due Process. Thus, the opinion of the Evaluator, which was fraudulently altered, unfairly effected the testimony in court. And, the tainted testimony was utilized by that Court, in its determinations with respect to Coulter's custody of her daughter. Therefore, the fraudulent actions by these Defendants / Criminal Co-conspirators adversely affected Coulter's Civil Rights, through actions in a Court of Law - in violation of the Protections of Due Process.

Despite other "protections" which might have been in place during these proceedings, the criminal actions by these Defendants, resulted in the introduction of tainted testimony by a witness who Defendants are obviously responsible for "tampering" with. Because this witness was scheduled to testify when Coulter herself was forced by the court, to proceed without legal representation, and at the tail end of the proceedings, the damages from the tainted testimony were made irreversible.

It is readily evident that Defendants were acting with at least the knowledge of those prosecuting the Termination Proceedings. Thus, Coulter's "due process" was obviously violated by these Defendants' "color of law" criminal actions - actions which were also known to other "State Actors" prior to the hearings that day, who, essentially were guilty of subornation of perjury¹ - an actionable violation of Due Process Rights. When

subornation of perjury is actionable under 1983, certainly witness tampering is as well.

1 Actual evidence of the involvement of specific individuals involved in prosecuting the case, has not yet been uncovered.

INJURY

Plaintiff has been injured by the actions of the Defendants, in that Defendants' actions have resulted in severe injuries to Coulter's relationship with the Child by significantly prejudicing Coulter's position in other matters before the courts. Further, as Coulter's daughter has required Emergency Mental Health Treatment, in part due to the actions of these Defendants / Co-conspirators,

Coulter continues to suffer from the effects of actions by these Defendants which have caused the pain that Coulter knows her only child is being put through.

CONCLUSION

As a result of the Criminal Conspiracy by these Defendants who fraudulently convinced Coulter's Evaluator to alter her Report and Testimony, Coulter's custody of her only child was adversely affected. Malicious Criminal Actions, such as these, can not be considered to be the acceptable actions by "State Actors". The Criminal Actions by State Employees, particularly when it involves members of "Law Enforcement", taken during the course of their day-to-day employment, truly "shocks the conscience" of even the most jaded members of the Public.

WHEREFORE, Coulter respectfully requests damages in the amount of One Hundred Million

Dollars and no Cents (\$ 100,000,000.00), and all such other relief as this Court deems just.

Respectfully Submitted,

Jean Coulter, Pro Se Plaintiff

VERIFICATION

The undersigned declares under penalty of perjury that she is the Plaintiff in the above action, that she has read the above complaint, and that the information contained therein is true and correct, to the best of my knowledge and belief.

Executed on July 12, 2013

Jean Coulter, Pro Se Plaintiff
3000 Chestnut Street,
P.O. Box 8094
Philadelphia, PA 19101-8094
412-616-9505

EXHIBIT B

10-0965

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE
CUSTODY

United States District Court
District: Western District of Pennsylvania

Name (under which you were convicted): Docket No.
Jean Coulter 0727 of 2006

Place of Confinement:	Prisoner No.:
Special Probation • in	Parole Number 606 EI

Butler County, PA

Petitioner (include the name under which you were convicted)

Jean Coulter

v.

Respondent

T. Forrest. O. Hoerner, PA Board of Probation
&Parole, Assis. D.A. C. Studeny, Atty. Gen. T.
Corbett

The Attorney General of the State of Pennsylvania

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:
Court of Common Pleas of Butler County,
Pennsylvania - Criminal Division
(b) Criminal docket or case number (if you know): 0727 of 2007
2. (a) Date of the judgment of conviction (if you know): 5/11/2007
(b) Date of sentencing: 7/17/2007
3. Length of sentence: 15 to 30 months
Incarceration followed by 36 months of probation
4. In this case, were you convicted on more than one count or o(more than one crime?
5. Identify all crimes of which you were convicted and sentenced in this case: Aggravated Assault
6. (a) What was your plea? Nolo contendere
(b) If you entered a guilty plea to one count or charge and a not guilty pica to another count or charge. what did you plead guilty to and what did you plead not guilty to? Not Applicable

(c) If you went to trial, what kind of trial did you have? Not Applicable

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing? No

8. Did you appeal from the judgment of conviction? Yes

9. If you did appeal, answer the following:

(a) Name of court: Superior Court of Pennsylvania - Western District

(b) Docket or case number (if you know): 265 WDA 2010 (from modification of sentence February 2010)

(c) Result: possibly pending (perhaps dismissed due to counsels repeated failure to file brief)

(d) Date of result (if you know):

(e) Citation to the case (if you know): Commonwealth of Pennsylvania v .Jean Elizabeth Coulter, App

(f) Grounds raised:
Lack of Jurisdiction (Due Process), Double Jeopardy, Conditions not related to rehabilitation and unduly restrictive of liberty, Cruel and Unusual Punishment, Fundamental Rights of a Parent, Freedom of Speech, Special Conditions not related to rehabilitation, incompatible with freedom and unduly restrictive of liberty

(g) Did you seek further review by a higher state court? Yes

If yes, answer the following:

(1) Name of court: Supreme Court of Pennsylvania - Western District (Writ of Habeas Corpus)

(2) Docket or case number (if you know): 53WM2010

(3) Result:

Praecipe for Entry of an Adverse Order filed (July 19, 2010) after the Supreme Court failed to rule on Emergency Stay to protect Petitioner's rights In collateral action In Orphans' Court

(4) Date or result (if you know):

(5) Citation to the case (if you know):

Coulter, J., Pet v. Thomas Forrestt. et al.

(6) Grounds raised

Fundamental Rights of a Parent, Double Jeopardy, Cruel and Unusual Punishment, Due Process (conditions not pursuant to requirements of statute) Due Process (requirements for Imposition of added conditions not met)

(h) Did you file a petition for certiorari in the United States Supreme Court? No

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? Yes

11. If your answer to Question 10 was "Yes", give the following information :

(a)

(1) Name of court: Supreme Court of Pennsylvania - Western District

(2) Docket or case number (if you know):

53WM2010

(3) Date of filing (if you know): 6129'2010

(4) Nature of the proceeding: Emergency

Application for Stay

(5) Grounds raised:

Lack of Jurisdiction (Due Process), Fundamental Rights of a Parent Double Jeopardy

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? No

(7) Result: Denied PA Supreme Court failed to rule in time to protect Petitioner in Orphans' Court Hear.

(8) Dale of result (if you know): 06/23/2010

(c) If you filed any third petition, application, or motion, give the same Information: No

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes

(2) Second petition: Yes

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE :

Lack of Jurisdiction (Due Process) Common Pleas Court Judge rules completely without jurisdiction (and he knew It). Thus Due process Is violated.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

In Pennsylvania, the Trial Court loses Jurisdiction to alter a sentence, thirty (30) days after it is imposed, or when Notice of Appeal is filed. The

Trial Court modified the Petitioner's sentence more than thirty (30) MONTHS after it was Imposed (and Notice or Appeal had been filed as well).

At the hearing where the Special Conditions were added to the Probation, the Court was Informed of the PA Supreme Court decision in Commonwealth v. Cooper (482 A.2d 1014). where the PA Supreme Court determined that the addition of even one (1) Special Condition of Probation, fifty-nine (59) days after sentencing (and after an appeal had been filed), was done without jurisdiction, due to the expiration of time for Jurisdiction.

Pennsylvania Statutes permit the Trial Court to alter the Conditions of Probation at any time, but, ONLY after a hearing where the conduct of the Defendant. since the time of sentencing, is reviewed, and found in violation of the original terms. It is well established that a sentence of probation is "conditional" - in that the sentence is final only upon release (upon completion of the terms of probation without violation of its terms) - or upon final judgment of modified sentence (if the terms are violated). But. not only were no "violations" proven at this hearing, NO VIOLATIONS WERE EVEN ALLEGED!

(b) If you did not exhaust your state remedies on Ground One, explain why:
EXHAUSTION SATISFIED (PA Supreme Court failed to decide (on both the Writ of Habeas Corpus and the Emergency Application for Stay) In time to protect Petitioner's rights in the collateral hearing In Orphans' Court. So, Petitioner has filed a Praecipe for Entry of an Adverse Order (pursuant to PA rules of Appellate Procedure Rule 301 (e) Emergency Appeals

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes

(2) If your answer to Question (d)(1) is "Yes", state:

Type of motion or petition: Petition for Supersedeas Pending Appeal and In Motion for Stay.

Name and location of the court where the motion or petition was filed:

Court of Common Pleas of Butler County,
Pennsylvania • Criminal Division (Supersedeas)
Supreme Court of Pennsylvania • Western Division
(Emergency Petition for Stay)

Docket or case number (if you know): 0727 of
2006 (Common Pleas) and 53 WM 2010 (Supreme
Court)

Date of the court's decision:

Result (attach a copy of the court's opinion or
order, if available):

The Trial Court's decision of June 23, 2010 is
attached. The Supreme Court failed to act on this
matter, despite the knowledge that the hearings
began on July 14, 2010. (Petitioner was informed by
Court personnel that the Supreme Court generally
renders some form of decision in time for known
event such as this. But, none has been received as of
date of filing, and two (2) days of hearings passed.

(3) Did you receive a hearing on your motion or
petition? No

(4) Did you appeal from the denial of your motion
or petition? Yes

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes

(6) If your answer to Question (d)(4) is "Yes", state:
Name and location of the court where the appeal was filed:

The Superior Court was also asked to Stay the Order due to Its likelihood to be overturned on this ground, but also denied the Stay.

Docket or case number (if you know): 265 WDA 2010

Date of the court's decision: 3/17/2010

Result (attach a copy of the court's opinion or order, if available): Docket Sheet from the Superior Court is attached.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No", explain why you did not raise this issue:

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

I tried to use the Administrative Remedies of the Board of Probation and Parole - prior to the Judge Illegally Imposing this Condition purportedly at the request of the Probation Officer. But the District Director did not respond to my request - choosing to permit the matter to go before the Court instead. At this point, the Board can not remove the Condition anymore.

GROUND TWO:

The re-sentencing of the Petitioner long after the sentence was initially imposed, adding MANY more conditions to the Petitioner's Probation, subjects the Petitioner to Double Jeopardy.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The Petitioner's sentence was originally Imposed on July 17, 2007, At that time, the only "Special Conditions" of Probation were that the Petitioner perform one hundred (100) hours of Community Service, and that Petitioner continue with ordered Mental Health Treatment. After Petitioner had completed the full term of thirty (30) months of incarceration. the Commonwealth petitioned for "Special Conditions of Probation".

While Pennsylvania Statutes treat Probation as a conditional Sentence, it is well established that the Defendant must have displayed conduct during the period of probation (which begins at the time of sentencing), which shows that Probation is not successfully bringing about the rehabilitation of the Defendant. Protections in procedures, as a result of the Gagnon decision. require that specific actions by the Petitioner must be alleged and proven. NOT ONLY WERE NO ACTIONS PROVEN TO VIOLATE THE CONDITIONS OF PROBATION - NONE WERE EVEN ALLEGED TO HAVE OCCURRED! Thus, the Court was not permitted to alter the conditions of even the "Conditional Sentence" it had imposed more than two and a half (2 1/2) years earlier - and after the bulk of the sentence had already been served!

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes

(2) If your answer to Question (d1) is "Yes", state:

Type of motion or petition: Petition for Supersedeas
Pending Appeal

Name and location of the court where the motion or
petition was filed:

Court of Common Pleas or Butler County,
Pennsylvania - Criminal Division

Docket or case number (if you know): 0727 of 2006

Date of the court's decision: 6/23/2010

Result (attach a copy of the court's opinion or order, if
available): Order denying Petition and Docket are
attached.

(3) Did you receive a hearing on your motion or
petition? No

(4) Did you appeal from the denial of your motion
or petition? Yes

(5) If your answer to Question (d)(4) is "Yes", did you
raise this issue in the appeal? Yes

(6) If your answer to Question (d4) is "Yes", state:

Name and location of the court where the appeal was
filed: Motions for Stay were filed in both the
Pennsylvania Superior and Supreme Courts,
concerning the same Issues.

Docket or case number (if you know): 265 WDA 2010
(Superior) and 53 WM 2010 (PA Supreme Court)

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if
available): The decision of the Superior Court is
attached. The Supreme Court failed to rule on the
Emergency Petition. despite the commencement of a
collateral hearing significantly impacted by the No
Contact Condition which was Illegally Imposed, of
which the Court was well aware.

(7) If your answer to Question (d)(4) or Question
(d)(5) is "No: explain why you did not raise this issue:

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two

Habeas Corpus was filed In the Pennsylvania Supreme Court, citing this Ground for Relief.

GROUND THREE

The Petitioner is subjected to Cruel and Unusual Punishment, in violation of the United States Constitution, by the Special Conditions of Probation.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The Trial Court's addition of a Special Condition of Probation. which denies the Petitioner ANY form of contact with her ONLY CHILD for the term of Probation, not only makes it impossible for Petitioner to defend her Fundamental Rights as a Parent, in the Collateral Hearings for Termination of Parental Rights, but it denies the Petitioner any form of contact with her child for an additional 3 years, beyond the restrictions which the Petitioner has already been subjected to. (The Petitioner was denied access to any form of communication with the Child through the rules of the Department of Corrections for the period of her Incarceration a separate violation of Petitioner's Constitutionally Protected Rights.)

(b) If you did not exhaust your state remedies on Ground Three. explain why?

(c) Direct Appeal or Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes

(2) If you did not raise this issue in your direct appeal. explain why:

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Petition for Supersedeas Pending Appeal (Com. Pleas) and Habeas Corpus

Name and location of the court where the motion or petition was filed: Court of Common Pleas of Butler County, Pennsylvania - Criminal Division

(Supersedeas) and Pennsylvania Supreme Court - Western Division (Habeas Corpus)

Docket or case number (if you know): 0727 of 2006 and 53 WM 2010

Date of the court's decision: 6/23/2010

Result (attach a copy of the court's opinion or order, if available): Decision of the Trial Court and Docket are attached, along with Praecipe for Entry for an Adverse Order in the PA Supreme Court.

(3) Did you receive a hearing on your motion or petition? No

(4) Did you appeal from the denial of your motion or petition? Yes

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Common Pleas appeal to PA Superior Court
Supreme Court appeal is this filing.

Docket or case number (if you know): 265 WOA 2010

Date of the court's decision: 3/17/2010

Result (attach a copy of the court's opinion or order, if available): Docket of Superior Court Decision Is attached. Praecipe for Entry of an Adverse Order In the Supreme Court is attached.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No", explain why you did not raise this issue:

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: Emergency Application for Stay (in the PA Supreme Court)

GROUND FOUR:

Fundamental Rights of a Parent. Freedom of Speech, Freedom of Association

Special Condition denying any form of access to Petitioner's ONLY child, by Illegally Imposed Special Condition of Probation clearly violates these protections of the Constitution.

(a) Supporting facts (Do not argue or cite case law. Just state the specific facts that support your claim.):

The Trial Court's illegal addition of a Special Condition of Probation, which denies the Petitioner ANY form of communication with her ONLY child (including third party contact), makes it impossible for Petitioner to defend her Fundamental Rights as a Parent (in the collateral hearings for Termination of Parental Rights), thus essentially Terminating this extremely Important "Right" without any form of determination of the Child's Best Interests, etc. It denies the Petitioner, any form of contact with her child for an additional three (3) years, beyond the restrictions which the Petitioner has already been subjected to. In research done in preparation for the appeals, it appears as though there has NEVER been an example of a blanket, unrestricted No Contact

Order Issued between blood relatives before - in any Jurisdiction!

(b) If you did not exhaust your state remedies on Ground Four, explain why:

EXHAUSTION SATISFIED

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes

(2) If you did not raise this issue in your direct appeal, explain why;

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes

(2) If your answer to Question (d)(1) is "Yes," state:
Type of motion or petition: Petition for Supersedeas
Pending Appeal

Name and location of the court where the motion or petition was filed: Court of Common Pleas of Butler County, Pennsylvania - Criminal Division

Docket or case number (if you know); 0727 of 2006

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available): Order of Court and Docket Entry attached.

(3) Did you receive a hearing on your motion or petition? No

(4) Did you appeal from the denial of your motion or petition? Yes

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes

(6) If your answer to Question (d)(4) is "Yes," state:
Name and location of the court where the appeal was filed: This Federal Writ or Habeas Corpus is

intended to appeal the PA Supreme Court's "Decision not to decide".

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available): NOT APPLICABLE

(7) If your answer to Question (d)(4) or Question (d)(5) is "No." explain why you did not raise this issue:

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: Habeas Corpus Relief sought in the PA Supreme Court - Western District.

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? No
If your answer is "No" state which grounds have not been so presented and give your reason(s) for not presenting them:

The Trial Court's lack of Jurisdiction to modify Petitioner's sentence was not present to the Pennsylvania Supreme Court. This is because Pennsylvania statutes do not permit Habeas relief in situations where this ground is claimed/proven. In that case, Petitioner is eligible only for direct appeal and PCRA relief. Due to the particular circumstances brought about by the illegally imposed No Contact Condition's collateral effects in the Termination of Parental Rights Hearings, PCRA relief is Ineffective to protect the rights of the Petitioner.

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them: NOT APPLICABLE

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? No
If "yes", state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court., either state or federal, for the judgment you are challenging? Yes
If "yes", state the name and location of the court, the docket or case number, the type of proceeding and the raised.

Petitioner's direct appeal is still pending in the Pennsylvania Superior Court (although it may imminently be dismissed due to Petitioner's Counsel's repeated failures to meet court ordered filing deadlines). Due to the particular circumstances involving the Trial Court's illegal imposition of a No Contact Order concerning Petitioner's child, and the Termination of Parental Rights Hearings, (concerning that same child) which are currently scheduled to be heard on July 28, and August, direct appeal is ineffective to protect Petitioner's rights with respect to this crucially important hearing.

16. Give the name and address, if you know, or each attorney who represented you in the following stages of the judgment you are challenging:

- (a) At preliminary hearing: Alexander Lindsay
- (b) At arraignment and plea: Alexander Lindsay
- (c) At trial: Alexander Lindsay
- (d) At sentencing: Alexander Lindsay (July 2007), Stanton Levenson (at illegal modification of sentence, February 2010, which is the subject of this Writ of Habeas Corpus)
- (e) On appeal: Sandra Kozlowski (2007), Sally Frick (2010)
- (f) In any post-conviction proceeding: Pro Se for Petition for Writ of Habeas Corpus in the Pennsylvania Supreme Court
- (g) On appeal from any ruling against you in a post-conviction proceeding:

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? NOT APPLICABLE

18. TIMELINESS OF PETITION: If your judgment or conviction became final over one year ago, you must explain the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition. NOT APPLICABLE. Modified sentence was imposed less than six months ago.

The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA ") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -

(A) the date on which the judgment became final by the conclusion of direct review or the condition of the time for seeking such review;

(B) the date on which the Impediment to filing an application mated by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

(C) the date on which the consritutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable 10 cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly flied application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: Petitioner requests release from the remainder of the term of Probation (until January 25, 2013) Or in the alternate, order that Petitioner's Sentence be returned to that which was originally

imposed on July 17 ,2007 and order that the Probation Officers of the Pennsylvania Board of Probation and Parole cease the addition of Special Conditions of Probation, or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the U. S. Mail on 7/21/10 (month, date, year)

Executed (signed) on 7/21/10 . (date)

Jean Coulter

Signature of Petitioner

If the person signing is not petitioner. state relationship to petitioner and explain why petitioner is not signing this petition.

Exhibits C & D

These are decisions from the District Court, but, as these decisions, naturally, do not address any issues which were not raised in the Petition (above), they are not included.

Exhibit E

This is decision from the Federal Appellate Court, but, as its decision, naturally, does not address any issues which were not raised in the Petition (above), it is not included.

Exhibit F

IN THE SUPREME COURT OF PENNSYLVANIA –
WESTERN DISTRICT

JEAN COULTER, Petitioner

vs.

THOMAS FORREST – Agent, PA Board of Probation
and Parole, DENNIS HOERNER, Supervisor, PA
Board of Probation and Parole, PENNSYLVANIA
BOARD OF PROBATION AND PAROLE,
CHRISTINE STUDENY -Assistant District Attorney
of Butler County, and TOM CORBETT, Pennsylvania
Attorney General, Respondents

Case No. _____

EMERGENCY PETITION
FOR WRIT OF HABEAS CORPUS

INTRODUCTION

The matter before this Court could never even have been envisioned when this Court repeated the oft-quoted Circuit Court decision "[t]he possibility of abuses inherent in broad judicial power to increase sentences --" *367 F2d at 370* . The instant case is NOT one in which the Trial Court judge inadvertently mis-sentenced the defendant, and later attempted to correct his error. This is instead an example of the clear and present danger of "abuses inherent in broad judicial power", as a Common Pleas Court Judge utilizes his honored position to violate all of the principles on which this country's justice system is based.

In this case, the Trial Court Judge, apparently, knowingly and intentionally has violated the Constitutional rights of a family, and doubly sentenced the Petitioner just because he has the power to do it This action, by a previously disciplined

member of the Common Pleas Court must be corrected immediately, before the collateral damages result in the permanent and irreversible destruction of a family!

The Parental Rights of the Petitioner are in jeopardy as a result of the "No Contact" provision of the "Special Conditions of Probation". This Condition was illegally imposed on the Petitioner's Probation, and will inevitably will become the flash-point at the upcoming Hearing for the Termination of Parental Rights of the Petitioner, which scheduled to commence on July 14, 2010, before another division of the County's Court of Common. Pleas.

JURISDICTION

Jurisdiction. for this Honorable Court to hear this Petition for Writ of Habeas Corpus, is pursuant to 42 Pa. Cons. Stat. §721 and 42 Pa. Com. Stat. §6502.

Petition is properly filed as a Petition for Writ of Habeas Corpus, rather than a PCRA, because the Petitioner is not proving that the sentence resulted from any of the specified conditions under "(2) That the conviction or sentence resulted from one or more of the following: " of 42 Pa. Com. Stat. § 9543, Eligibility for relief.

PART ONE: CONVICTION AND/OR SENTENCE UNDER ATTACK

1. Name and location of the state court which entered the judgment of conviction challenged: Court of Common Peas of Butler County. Pennsylvania - Criminal Division.
2. Date judgment of conviction was entered: July 17. 2007. sentence was increased on February 2. 2010.
3. Case number. CP-10-CR-0000727-2006.

4. State each offense of which you were convicted and the sentences for each: One count of Aggravated Assault (18§2702§§A4) - term of incarceration of 15 to 30 months, followed by 36 months of Probation.

5. What was your plea? Nolo Contendere

6. If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement. Agreement to not request mandatory minimum sentence.

7. Kind of trial: None (pled Nolo Contendere).

8. If you had a trial, did you testify at trial? No. Not Applicable.

9. Are you presently serving a sentence imposed for a conviction other than the conviction under attack in this motion? No.

PART TWO: CLAIMS

First Claim:

1. Ground

Petitioner's Fundamental Rights of a Parent are violated by the unlawfully imposed condition of No Contact with the Petitioners only child, for the duration of the Probation - a period of three years. This violation is essentially Terminating the Petitioners Parental Rights - without any form of Hearing or Due Process) and does not permit consideration of the Best Interests of the Child, or legitimate restrictions on the Parent's liberty.

As a result of the collateral effects in the Orphans Court Division. the Due Process Rights, secured by the Fifth Amendment of the United States Constitution, are also violated in this action, for the Child as well as the Petitioner. This violation is occurring in other Divisions of the Common Pleas Court as well.

2. Supporting Facts

On February 1, 2010, a "hearing" was held in response to the "Motion for Special Conditions of Probation". At this hearing the Commonwealth not only failed to prove any improper conduct by the Petitioner, while on Probation, none was even alleged! In complete disregard for the laws, the Trial Court Judge ordered the addition of an extensive list of "Special Conditions, including the condition barring the Petitioner from having any form of contact with her only child, for the duration of the Probation – three (3) years.

On March 10, 2010, the Judge in the Orphans' Court Division of the same County's Courts ruled that the Child not have any form of contact with the Petitioner unless the Child can make those wishes known to the Court. The Child has, according to documents in the files of the Children and Youth Agency (which is advancing the Termination Hearing), repeatedly expressed the desire for contact with the Petitioner, but the Agency has muted her voice. This Judge has denied Petitioner access to the records of the Caseworker for the Agency, thus the Child's wishes are now completely silenced.

The Record of the proceeding in the Orphans' Court Division, does not indicate that it in any manner it considered the 'Child's Best Interests, only the Conditions of Probation, as the Agency explained them to both the Child and the Court.

Also, as a result of the Permanency Review Hearing; the Court determined that the Goal should change to a singular goal of Adoption. This change of goal, alone, deprives the Petitioner of her absolute right for visitation with her Child! Thus, the illegally imposed "Special Conditions of Probation", which were added to the Petitioner's Probation: for

absolutely no justifiable reason, by the Judge in the Criminal Division, has already, essentially, Terminated the Parental Rights of the Petitioner, all without any form of Due Process, or even. permitting any consideration of the Chid's Best Interests.

Second Claim:

1. Ground:

Petitioner was illegally sentenced with additional Special Conditions of Probation added to her sentence, resulting in the violation of the Double Jeopardy Protections of the Fifth Amendment of the United States Constitution.

More than 30 months after sentence was imposed, the Trial Court ruled on a "Motion for Special Conditions of Probation", amending the Petitioners sentence and thereby significantly increasing the limitations on the Petitioners liberty. These conditions were not added as a result of any allegations of wrong-doings by the Petitioner (since the original sentence was imposed), but instead, only as a result of the District Attorney's Office petitioning for additional limitations on the Petitioner's liberty.

2. - Supporting Facts:

The Sentence of July 17, 2007, indicates only that the Petitioner is to serve a term of incarceration, followed by a term of thirty-six (36) months of Probation with the only Special Conditions of Probation, listed as:

"(X) Special condition(s) of sentence (If any):

(X) Defendant shall perform 100 hours of community service under the direction of STATE Probation Office..."

And in the section describing the term and supervision of probation, requires;

"must attend any counseling as directed by probation officer."

The Commonwealth's "Motion for Special Conditions of Probation" does not indicate any justification for the request, other than :

The Commonwealth has been advised that the State Parole and Probation officer is requesting special conditions of probation..."

The resultant restrictions on the Petitioners liberty is in opposition to the Double Jeopardy provisions of the United States Constitution. and has been tested by well-established precedent in the Pennsylvania Courts. At the time of the hearing, the Trial Court was informed of the decision in *Commonwealth of Pennsylvania v. David Cooper*, 333 Pa. Super. 559, 482 A.2d 1014. In the Cooper decision, the Superior Court held that

"(4) because amended sentence was imposed more than 30 days after sentencing and after appeal had been filed, amendment of sentence ... as condition of probation or parole was unlawful and was a nullity."

Modification of judgment of sentence vacated, and original sentence reinstated..."

In addition to the case brought to the Trial Court's attention at the time of the hearing On February 2, 2010, are a significant number of cases where the Courts have dealt with Trial Court decisions to augment Sentences. In all of the listed cases, at least the Court had some justification for attempting to increase the Sentence imposed -unlike the instant

Case where no such justification has ever been offered by the Trial Court! And, still, the Appeals Courts have determined that there can be no exceptions to the Double Jeopardy Protection of the Fifth Amendment of the United States Constitution. These cases include *United States v. Sacco*, 367 F.2d 368 (1966), *Commonwealth v. Allen*, Pa., 277 A.2d 803 and *Commonwealth v. Quinlan*, 639 A.2d 1235.

Nevertheless, without indicating that the Petitioner's conduct since the imposition of sentence had in any manner been improper, the Trial Court added additional restrictions to the Petitioner's liberty.

Third Claim:

1. Ground:

The Special Conditions of Probation, which were added on February 2, 2010, constitute Cruel and Unusual Punishment, which is a violation of the Eighth Amendment of the Constitution of the United States. "Excessive bail shall not be required, nor excessive fines imposed nor cruel and unusual punishments inflicted.

2. Supporting Facts:

In researching cases for examples of instances where blood relatives are restricted from access as a condition of Probation or Parole, I was unable to find any, in any jurisdiction where the No Contact Order was absolute as this one is. In every instance where the Court determined that contact could be significantly restricted, there was always a manner in which the Court's restrictions could be lifted before the completion of the term of Probation! Sometimes, this would be accomplished through completion of appropriate actions by the Probationer, and/or approval of Mental Health professionals, etc.

It has never been an accepted form of punishment for the Courts to remove a Child for any reason other than the "Child's Best Interests". Yet, in the instant matter, the Trial Court has removed the Child, without permitting the appropriate Court to even consider testimony about the Child's Best Interests. By adding a punishment, which is specifically not among those intended by the legislature, the Trial Court Judge is responsible for the essential Termination of the Petitioner's Parental Rights - which is referred to as the "Civil Court's equivalent to the Death Penalty", all without any consideration of the effect on either the Child or the Parent or on Society as a whole!

Fourth Claim:

1. Ground:

The Special Conditions of Probation are not in compliance with 42 Pa. Corm. Stat § 9754, which requires that the Conditions of Probation:

"(b) Conditions generally. - The court shall attach such of the reasonable conditions authorized by subsection (c) of this section as it deems necessary to insure or assist the defendant in leading a law-abiding life.

(c) Specific conditions. - The court may as a condition of its order require the defendant ...

(13) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience. "

2. Supporting Facts:

The Condition requiring that the Petitioner have absolutely no form of contact with her only child, for the duration of the probation, clearly is

"...unduly restrictive of his liberty or incompatible with his freedom of conscience. "

Further, the conditions are in no manner conditions "reasonably related to the rehabilitation of the defendant" as they are, according to the Probation Supervisors testimony, applied to "... everyone who comes under om supervision. ". Beginning on page 15 of the Transcript. he stated that:

Q Okay. Now, could you inplam what exhibit four is?

A These are special conditions that we impose on, I should say "Written instructions that we impose on everyone who comes under our supervision.

Q Okay, now the top of the form it says special conditions of parole. Was that an error?

A That was an error. We use two separate forms with the same wording. One form is for those on state parole. The other form is for those on special probation or parole. I believe Agent Forrest grabbed the wrong form in error ...:

Q Okay. Now, on this particular special conditions of probation would you go over which, would you go over the conditions that are relative to Miss Coulter?"

Then, the Probation Supervisor went on to explain that all of the listed Conditions were being imposed, with the exception of the denial of permission for possession of a cell phone. No explanation was ever provided for why any of the conditions might apply to the Petitioner. It is unclear why the Petitioner must "not use, possess or control any ... controlled substances unless it has been prescribed for you by a licensed physician and is in its original container

with the prescription affixed. " (emphasis added). It was explained to the Petitioner by the Probation Supervision staff that this means that even the Petitioners blood pressure medicine must remain in its original container rather than being kept in a Daily Pill Reminder container.

Fifth Claim:

1. Ground:

The imposition of Special Conditions of Probation, more than thirty (30) months after the Petitioner's Sentence was imposed, violates 42 Pa. Com. Stat. § 9771. This statute permits the modification of Conditions of Probation, only in response to any violation of the Petitioners Probation.

2. Supporting Facts:

At the hearing on February 1, 2010, no testimony or evidence was advanced which might show that the Petitioners "conduct ... while on probation" was in any manner improper. Therefore, the Court improperly imposed additional restrictions on the Petitioner's liberty.

PART THREE: CASE HISTORY -DIRECT APPEAL
AFTER CONVICTION

1. Did you file a direct appeal from the judgment of conviction? Yes.
2. Appellate case number. 265 WDA 2010.
3. Date of decision: Case is still pending and it will not be decided in time to protect Petitioner's Parental Rights. Motion for Stay of Trial Court Order denied on March 17, 2010.
4. Specify the claims raised in your direct appeal which are the same as any claims raised in this petition: Fundamental Rights of a Parent, Double

Jeopardy, Cruel and Unusual Punishment, Due
Process and violation of 42 Pa. Cons. Stat § 9754
and § 9771

...

Respectfully Submitted,
Jean Coulter, Pro Se Petitioner

EXHIBIT G

Exhibit G is the decision of the PA Supreme Court denying Habeas, but as the Petition for Habeas (above) never mentions any Witness Tampering, the decision also makes no mention of it – therefore, this document is not included.

EXHIBIT H and EXHIBIT I

Exhibit H is Petitioner's Petition for Writ of Mandamus to the Commonwealth Court. Exhibit is the denial of Mandamus.

It is patently obvious that the Commonwealth Court, through Petition for Writ of Mandamus, would be incapable of addressing Fraud and Witness Tampering by a Probation Officer - which is the subject of the Civil Complaint which was ostensibly raised in Coulter's Petition for Writ of Mandamus. This document is also not included, as it too is "fluff" filed by Defendants in obvious confidence that no real "defense" is required when a member of the "Just Us System" is brought into court to require that they accept responsibility for their actions!

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA
CIVIL ACTION
NO.: 2:12 cv 00060

JEAN COULTER, Plaintiff

v.

CHRISTINE STUDE NY, OFFICE of the BUTLER
COUNTY DISTRICT ATTORNEY JEREMY
STEWART, DENNIS HOERNER, THOMAS
FORREST, THOMAS EIDENMULLER, and
WILLIAM R. SHAFFER, Defendants

AMENDED COMPLAINT FOR CIVIL ACTION

1.) Plaintiff, JEAN COULTER, is a resident of Philadelphia, Pennsylvania, and a citizen of the United States.

2.) Defendant, CHRISTINE STUDE NY, is resident of Pennsylvania, and is employed by Defendant OFFICE of the BUTLER COUNTY DISTRICT ATTORNEY, and is a citizen of the United States.

3.) Defendant, JEREMY STEWART, is resident of Pennsylvania, and is a citizen of the United States. Defendant Stewart is being sued in his Personal or Individual Capacity.

4.) Defendant, DENNIS HOERNER, is resident of Pennsylvania, and is a citizen of the United States. Defendant Hoerner is being sued in his Personal or Individual Capacity.

5.) Defendant, THOMAS FORREST, is resident of Pennsylvania, and is a citizen of the United States. Defendant Forrest is being sued in his Personal or Individual Capacity.

6.) Defendant, THOMAS EIDENMULLER, is resident of Pennsylvania, and is a citizen of the United States. Defendant Eidenmuller is being sued in his Personal or Individual Capacity.

7.) Defendant, WILLIAM R. SHAFFER, is resident of Pennsylvania, and is a citizen of the United States. Defendant Shaffer is being sued in his Personal or Individual Capacity.

JURISDICTION

8.) This court has jurisdiction over this matter pursuant to 42 U.S.C. Section 1983.

FACTS

9.) On January 22, 2010, Plaintiff COULTER was told that she must speak to Defendant STEWART. At that time, Stewart informed Coulter was imposing a Sentence of Probation with the "stipulation" that she may not reside in the Philadelphia Area. (Stewart made "air quotes" at the word, stipulation.)

Stewart then told Coulter that she must find a place to live in the Pittsburgh Area and report on Monday, January 25, 2010, by telephone, to the Agents in the Butler County Sub-Office of the Board of Probation and Parole - providing the information about her new residence to the Agents at that time.

a.) When Coulter protested that Stewart did not have the authority to impose Sentence, Stewart informed Coulter that "they" are working on that - but meanwhile, Coulter would be arrested and immediately imprisoned, if she failed to follow his Orders on January 25 and 26, 2010.

b.) Because Stewart said that "they ARE working on it" (emphasis added), it is apparent that a co-conspirator (or more than one) was already in contact with representative(s) of the Legal/Justice

System. Further, as Stewart (and any co-conspirators) made no secret of his planned actions, or the outward actions which he had just taken against Coulter, it is apparent that "they" felt confident that the conspirators would be treated "lightly" with respect to their planned criminal activities. It is apparent that this feeling of confidence was as a result of the reactions displayed by representatives of the Legal/Justice System, which were noted by the conspirator who was "working on it").

10.) On January 25, 2010, Coulter obtained new housing and telephoned the Butler Sub-Office as she had been Ordered to do by Defendant Stewart.

11.) On January 26, 2010, Coulter reported, in person, to the Butler Sub-Office as she had been Ordered to do.

12.) On January 26, 2010, Coulter met with Defendants HOERNER and FORREST. These two Defendants then imposed another, "new" Sentence, namely Probation with numerous Conditions of Probation on Coulter - despite lacking any authority to do so!

a.) When Coulter protested that Hoerner and Forrest did not have the authority for these Orders, Defendants Hoerner and Forrest informed Coulter that "they" are working on that, but meanwhile, Coulter would be arrested and immediately imprisoned, if she failed to abide by the Conditions of their newly imposed Sentence.

b.) Hoerner and Forrest went on to explain that they had been in touch with Studeny and Shaffer. Defendants Studeny and Shaffer were specifically identified by name, with the comment that Coulter was from Butler and certainly must

know those two Defendants as they work in the Butler Courts. Forrest and Hoerner explained that the Studeny and Shaffer were fully aware of the exact steps which Forrest and Hoerner had just taken against Coulter.

13.) There are only two (2) conceivable reasons to contact the "court/legal system" prior to embarking on even a potentially illegal action:

a.) For legal advice about whether the plans actually violate criminal statutes - or (when the action is clearly known to be criminal, as is the case in this matter) in order to ascertain the punishment called for by Statute.

or

b.) To "get a sense" about how those individuals (in the Butler County Courts) would treat these law-breakers, if they were brought into "their" court about the actions being planned against Coulter.

Neither Studeny nor Shaffer are granted immunity by any statute with respect to either of these actions, as they are not within the "official duties" of the positions which Shafer and/or Studeny hold.

14.) As the immunities granted by Statute and Case Law, pertain only to the "official" activities of the "State Actors", it is apparent that the probation Officers, as well as Shaffer and Studeny are not covered by the protections of immunity provided for legitimate exercise of their "official duties".

a.) It is readily apparent that Studeny and/or Shaffer either provided legal advice - which removes immunity,

or

b.) Shaffer and Studeny became co-conspirators as they indicated that they would "look the other way" with respect to the planned criminal actions.

In either case, their actions abrogate the immunity they would receive in relation to actions taken within their "official duties".

15.) Forrest and Hoerner questioned Coulter as to why she had not located housing in Butler, since she had lived there previously, in her Mother's old home. When Coulter explained that she understood that squirrels had entered the house, and the family had decided to have repairs done, Coulter was asked if she didn't have "an old girlfriend" that she could move in with.

Coulter felt that these Defendants had further disrespected Coulter and her friends, by referring to them as "old", but Coulter explained that among her "old" "girlfriends", one had recently re-married, and another had been caring for her husband who was seriously injured in a fall down the stairs only a few months earlier. Both defendant Hoerner and Forrest looked puzzled at what Coulter was explaining.

It has since been learned that these Defendants were under the mistaken impression that Coulter was Lesbian, and by "old girlfriend", they were not referencing the physical age of the friend. (This impression was also evidenced when Defendant Forrest repeatedly informed Coulter, when meeting her at the hotel (where she had been Ordered to move), that someday he and Coulter would "hook up". Initially Coulter felt that Forrest did not know the "current" meaning of the phrase, but it became apparent that this oft-repeated statement was prompted by the erroneous

impression that Coulter was not heterosexual, but might be "changed", or at least this was another way of threatening to "violate" Coulter further.

16.) On or about January 28, 2010, Coulter wrote to Defendant EIDENMULLER, to inform him of the actions of his subordinates, and request his assistance in stopping the Defendants in their Criminal Actions. Coulter had previously made a number of attempts at telephone contact with Eidenmuller, but her calls went unanswered. Eidenmuller also took no actions with relation to these rogue agents, in response to Coulter's letter. And, thus, Eidenmuller was aware of the criminal actions of his subordinates, but chose to do nothing to stop these clearly criminal actions by State employees over which he had supervisory responsibilities.

17.) It is obvious that the Defendants had been in communication about this matter, conspiring to violate Plaintiffs Rights, prior to January 25, 2010 likely over a period of months.

While Defendants Studeny and Shaffer, did not become involved directly with Coulter, during these 5 days, it is obvious that both Defendant Studeny, and Defendant Shaffer, had been encouraging and directing the actions of the Defendant probation Agents, probably for some time:

a.) All of the Defendants are well aware that the actions of the Defendant Probation Agents are not permitted by law, and thus their actions are Criminal.

b.) And, if the Defendant Agents were not certain that Defendants Studeny and Shaffer would "support" and "protect" them, they would clearly not

have informed these Court Officers of their intended actions, as this makes all of the Defendants co conspirators, and all therefore in violation of a number of Federal Criminal Statutes - under the "Color of Law", as well as 18 U.S.C.A. § 4.

c.) Further, after learning of the intentions and later, learning of the actual Criminal Acts by the Defendant Probation Agents, neither of the Court Officers ever made any report of these illegal actions to any law enforcement authority, or encouraged any others to commence criminal proceedings. It is believed that as members of the Court, Studeny and Shaffer are required to report such activities when they become known to them in the course of their employment as is/was the case in this situation.

d.) On March 21,2012, (after filing of the initial Complaint for Civil Action), Coulter was contacted by a Mr. Marjoram¹ of the Pennsylvania Board of Probation's "Internal Affairs" Unit (properly titled Office of Professional responsibility, I believe). Mr. Marjoram informed Coulter that at some point after January 26,2012, Defendant Shaffer held what Marjoram called a "McGregor Hearing" which somehow retroactively de-criminalized the actions of Defendant's Hoerner, Forrest and Stewart.

Before Marjoram left, Coulter was already on the internet searching for information about this "McGregor Hearing", and specifically asked for the spelling of the name, as she was unable to locate anything under the McGregor spelling, but the search engine referred Coulter to MacGregor instead. Coulter still has not been able to find references to anything termed a "McGregor Hearing". And Coulter

personally doubts that any Judge of the Court of Common Pleas has the ability or authority to de-criminalize even violations of State crimes - and it is

1 Coulter has not received a copy of the documents produced from this meeting, as was promised, and thus is uncertain of the correct spelling of the investigator's name.

highly unlikely that a State Court Judge would have the ability to de-criminalize acts which violate Federal Criminal Statutes, when the State Court is not authorized to hear cases involving Federal Criminal Statutes.

It appears that Defendants Shaffer and Studeny have fabricated this "McGregor Hearing" for the sole purpose of appeasing the other Defendants who are co-conspirators of Shaffer and Studeny, and became ill-at-ease when contemplating becoming the Defendants in Criminal Actions as a result of their acts of January 22 and 26, 2010.

e.) While researching the fabricated hearing called a "McGregor Hearing", Coulter came across a Pennsylvania Case titled Commonwealth v. MacGregor. The manner/method which the Defendants in this case, chose to utilize, to illegally impose the Sentence of Probation, as imposed by Hoerner and Forrest, is identical to the method utilized in the case of Commonwealth v. MacGregor. This case was decided in 2006, determining that Probation Officers do not have the authority to impose a sentence of probation (or any other sentence), even though they use a form provided by their employer (which is intended for other purposes), to do so. The form utilized in both

MacGregor and Coulter's case, is a form intended for individuals who are on State Parole.

As Officers of the Court, employed in the Criminal arena, it is clear that both Defendant Shaffer and Defendant Studeny, are well aware of this exact case - and therefore, would be in a position to suggest to the other Defendant's this particular manner to proceed. Further, Shaffer has been quoted as citing this exact case, by name, in another situation.

When combined with the mis-information provided to the Board of Probation and Parole, about a hearing conducted by Shaffer which was supposedly held in order to exonerate Defendants Stewart, Hoerner and Forrest, it appears highly likely that Shaffer (perhaps acting with Studeny), "master-minded" the crimes committed against Coulter, and perhaps duped Defendants Stewart, Hoerner and Forrest into being their "front men" in this case. (It is also apparent that Defendants Hoerner and Forrest received some form of personal satisfaction from their crimes against Coulter, as silly restrictions continued to be added by Defendants Hoerner and Forrest, which served no apparent purpose other than providing personal gratification to Defendants Hoerner and Forrest.

18.) Plaintiff Coulter, has been forced to abide by the significant restrictions on both her liberty and her constitutionally protected rights, brought about by this illegally imposed Sentence of Probation, for more than two (2) years, as of the date of amended filing. Defendants Hoerner and Forrest, continued to illegally impose new restrictions on Plaintiffs liberty, ordering Coulter to relocate

yet again, in early March 2010, to a "hotel or otherwise" in Butler County only, and Ordering that Coulter may not travel in any private vehicle, unless driving it herself.

19.) Defendants immunities are abrogated as a result of the fact that Defendants' actions are in violation of Federal Criminal Statutes, as well as outside of the scope of their "official duties".

20.) Wherefore, the Plaintiff demands judgment against the Defendants for damages in the amount of One Hundred Million Dollars (\$100,000,000.00), and for any other such relief this court deems just.

Plaintiff choses to exercise her right to TRIAL BY JURY.

CAUSE OF ACTION

1.) I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations.

a.) Count I: Violation of Plaintiffs Fundamental Rights of a Parent and Plaintiffs First Amendment Rights of Freedom of Speech and Freedom of Assembly and Protection from Cruel and Unusual Punishment as guaranteed by the Eighth Amendment.

Supporting Facts: Defendant Hoerner, personally imposed the portion of the Sentence which denied Coulter any contact with her only Child - even to the extent that Coulter has not been able to inform the Child of the existence of the illegal sentence which restricts her contact. Sentence was imposed through a document produced by Defendant Hoerner, stating that even third party contact was prohibited, and enforced by Hoerner's threats of immediate

arrest and imprisonment if Coulter failed to abide by this illegally imposed Sentence.

All of the Defendants are co-conspirators in the criminal conspiracy, and were apparently aware of the extensive list of conditions which defendants were going to include in this illegally imposed Sentence. All Defendants therefore are liable for the extreme damages caused by this Violation of Coulter's Fundamental Right as a Parent, and Violation of Cruel and Unusual Punishment through denial of contact with her only Child, as protected by the Eighth and Ninth Amendments to the United States Constitution as well as Freedom of Speech and Freedom of Assembly protected by the First Amendment.

Any reasonable human being will immediately recognize the extreme damages done to a Parent-Child Relationship when contact is not forthcoming without even the ability to provide any form of explanation to the Child by Coulter or even a Third Party! Thus, NO further explanation of any resulting /consequential damages to Coulter, with respect to the Fundamental Rights of a Parent, is necessary to include in this filing.

b.) Count II: Violation of Plaintiffs Due Process Rights.

(2) Supporting Facts: When Defendants Stewart, Hoerner and Forrest, imposed Sentence on Plaintiff Coulter, their actions were taken completely without any of the other protections of Due Process without authority, without notice and without any opportunity for Plaintiff to defend herself prior to their illegal imposition of Sentence. The remainder of the Defendants, were aware of the actions of the Defendant Probation Officers, and had obviously

chosen to join into this Criminal Conspiracy of Plaintiffs Rights.

Defendant Eidenmuller chose to permit the Defendant Probation Agents' part in this Conspiracy to go unimpeded and unprosecuted, even after being informed of their involvement, personally, by Plaintiff. This occurred despite Eidenmuller being employed in a supervisory role, which would have enabled Eidenmuller to "remove" the effects of the prior crimes on Coulter.

The Office of the District Attorney has similarly chosen to permit Defendant Studeny's part in this Conspiracy to go unimpeded and unprosecuted. In both of these cases, these supervisors/employers are displaying tacit approval of the actions of these rogue employees and therefore similar actions by all of their employees and through this tacit approval, have convinced Plaintiff that the threats by these Defendants, of immediate arrest and incarceration, will be "supported" by the Defendant's supervisors/employers.

c.) (1) Count III: Violation of Plaintiffs First Amendment Rights to Freedom of Religion, Freedom of Speech and Freedom of Assembly

(2) Supporting Facts: Among the extensive list of Conditions of Probation in this illegally imposed sentence, are restrictions on Plaintiffs movements between the hours of 10 P.M. and 6 A.M. .. This has resulted in Plaintiff not being permitted to attend various religious services because her return to her residence during the illegal curfew, prohibits it. Additionally, the restrictions on the place of Coulter's residence (similarly illegally imposed), have prohibited Coulter's practice of any religion not represented by places of worship in Butler County.

Coulter has been ordered to have no contact with anyone with a drug problem, or who she "should have known" has such problems, but Coulter is unaware of how she can be held responsible for knowing who might be included in this restriction. Thus Coulter has been forced to have severely limited her contact with anyone not previously known to Coulter, as being free of any such problem.

d.) Count IV: Violation of Plaintiffs Right to Protection from Unreasonable Search and Seizure, and Right of Privacy.

(2) Supporting Facts: Among the Conditions of the illegally Sentence, was a requirement that Coulter undergo a Psychological Exam, and release the results of the exam to the conspirators. The right to privacy in this manner has been consistently held to be more important than government interests in numerous court cases in Pennsylvania, and these conspirators permitted release of this information to other parties as well.

Count V: Violation of Plaintiffs Sixth Amendment Rights, and Plaintiffs Rights to "Life. Liberty and the Pursuit of Happiness" protected by the Constitution and the Ninth Amendment.

(2) Supporting Facts: Coulter was never informed, prior to the instances of illegal Sentencing, of any "charges" upon which Defendants were, presumably, imposing Sentence. Plaintiff never was given any opportunity to defend herself prior to the imposition of Sentence by these conspirators. In short. these Defendants. chose to blatantly violate all of Plaintiffs Rights to Life. Liberty and the Pursuit of Happiness. merely because they were aware of the support for their actions. by their fellow conspirators. and the likely apathy of their employers and

fellow law-enforcement" officers.

INJURY

Defendants have essentially stolen more than (2) years (so far) of Coulter's life, through their theft of her family, and violation of every Right guaranteed by the Constitution of the United States. This is a most extreme example of the abuse of the powers granted by the government, exercised completely without authority - and clearly constitutes numerous Crimes by the Defendants. However, the level of corruption in Butler County, and apparently the State of Pennsylvania as well, has permitted these government employees to continue to feel immune from Criminal Prosecution for their Criminal Actions! And, as the Board of Probation has been "tricked" into believing that Shaffer's supposed "McGregor Hearing" retroactively de-criminalized the actions of Defendants Forrest, Hoerner and Stewart, Coulter's search for Justice has thus far, been futile!

PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

No prior Civil Actions have been attempted in relation to the facts presented in this matter. While Plaintiff has attempted to have these Defendants prosecuted, Law Enforcement authorities have shown no interest in pursuing the investigation and prosecution of "their own". And, any cases which may exist, including the results from the supposed McGregor Hearing", which pertain in any manner to the criminal actions of these Defendants, would only serve to bolster the claims by Coulter, and thus Coulter does NOT ask this Honorable Court to review and overturn any as yet un-identified and/or un-named case which has been referenced by

Defendants. (Coulter is unaware of the results of the investigation by the Board of probation, of the crimes committed by Defendants Eidenmuller, Stewart, Hoerner and Forrest - but as the investigation commenced following filing of the initial complaint, such results are not relevant to exclusion of this case from consideration by Federal Courts.)

REQUEST FOR RELIEF

Plaintiff requests relief in the form of payment of damages in the amount of One Hundred Million Dollars (\$100,000,000.00). Further, Plaintiff requests any other relief which this Court is authorized to take, to protect Coulter and her Family from future criminal actions by these individuals and their supervisors/employers - including reporting (by the Court) of the actions by all of the Defendants which have violated Federal and State Criminal Statutes - to encourage criminal Prosecution of these Criminals acting "Under the Color of Law".

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that she is the plaintiff in the above action, that she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. Section 1746, 18 U.S.C. Section 1621.

Executed at

United States Post Office, Germantown Avenue,
Chestnut Hill, PA, on July 3, 2012.

Jean Coulter,
Pro Se Plaintiff
4000 Presidential Boulevard Apt. 507
Philadelphia, Pennsylvania 19131
412-616-9505

EXHIBIT K, EXHIBIT L & EXHIBIT M

Exhibits K, L and M are decisions from the Federal Courts related to the Civil Complaint labeled Exhibit J (above). As the Complaint clearly does not raise the Claims of Fraud and Witness Tampering, obviously the decisions for that matter would also not mention this Issue, which is the basis on which the Trial Court ostensibly dismissed Coulter's Complaint! Therefore, these documents have been omitted.