

Appendix

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 17-2950

JEAN COULTER, Appellant

v.

CATHY BISSOON, District Judge;
THEODORE A. MCKEE, Third Circuit Judge;
ANTHONY J. SCIRICA, Third Circuit Judge;
THOMAS MICHAEL HARDIMAN, Third Circuit
Judge; JOSEPH A. GREENAWAY, JR., Third Circuit
Judge; JULIO M. FUENTES, Third Circuit Judge;
THOMAS IGNATIUS VANASKIE, Third Circuit
Judge; MARIE MILIE JONES; JOY FLOWERS
CONTI, District Judge; UNKNOWN EMPLOYEE IN
THE CLERK'S OFFICE; RICHARD G. ANDREWS,
District Judge

Submitted for Possible Summary Action
Pursuant to Third Circuit L.A.R. 27.4 and I.O.P. 10.6
April 12, 2018
Before: BIBAS, NYGAARD and FISHER,
Circuit Judges
(Opinion filed: April 13, 2018)

OPINION*

PER CURIAM

Jean Coulter appeals from an order of the

1a.

District Court striking and dismissing her amended complaint. For the reasons that follow, we will summarily affirm.

Coulter has filed a series of unsuccessful federal civil rights complaints against the persons involved in the termination of her parental rights in state court and her criminal prosecution in state court. See generally Coulter v. Doerr, 486 F. App'x 227 (3d Cir. 2012); Coulter v. Ramsden, 510 F. App'x 100 (3d Cir. 2013); Coulter v. Butler Cty. Children & Youth Serv., 512 F. App'x 145 (3d Cir. 2013); Coulter v. Studeny, 522 F. App'x 147 (3d Cir. 2013); and Coulter v. Forrest, 606 F. App'x 634 (3d Cir. 2015).

On December 18, 2012, United States District Judge Cathy Bissoon determined Coulter to be a vexatious litigant and enjoined her "from filing any additional civil actions related to or arising from the state court proceedings involving her criminal conviction for assaulting her minor child, and/or subsequent termination of her parental rights," see Coulter v. Ramsden, D.C. Civ. No. 12-cv-01050, and Coulter v. Mahood, D.C. Civ. No. 12-cv-01241. Coulter appealed and we summarily affirmed the District Court's orders. In a 2015 appeal, we noted that Coulter "had the opportunity to challenge [the vexatious litigant] order in earlier appeals, and in each appeal, we summarily affirmed the District Court's judgment." Coulter v. Lindsay, 622 F. App'x 187, 188 n.2 (3d Cir. 2015).

The instant appeal concerns another civil rights action filed by Coulter in the United States District Court for the Western District of Pennsylvania. In this most recent action, Coulter sued various district and circuit court judges, all of

whom were involved in issuing rulings in one or more of her prior civil rights actions involving the termination of her parental rights and her criminal prosecution in state court. Coulter also sued Marie Milie Jones, an attorney for some of the defendants in the cases that led to the vexatious litigant injunction against Coulter. District Judge Richard G. Andrews of the United States District Court for the District of Delaware was designated and assigned to preside over the case pursuant to 28 U.S.C. § 292(b). Coulter was ordered to show cause why her case should not be dismissed. Coulter then filed a response to the show cause order, alleging that the new action was not related to the termination of her parental rights and her criminal prosecution, and an amended complaint, in which she added Judge Andrews as a defendant.

In an order entered on July 5, 2017, the District Court determined that Coulter's amended complaint was indeed related to the termination of her parental rights and her criminal prosecution and should be stricken and dismissed. The District Court noted that the amended complaint alleged, among other things, that Judge Bissoon's vexatious litigant injunction was forbidden because it meant that her (Coulter's) cases were not randomly assigned; that attorney Jones filed a "Sealed Adoption Record" in federal court without notifying the Clerk's Office that the record was sealed by the state courts; all of the judicial defendants violated the Code of Judicial Conduct in connection with Judge Bissoon's injunction and attorney Jones' alleged misconduct; and Judge Bissoon released to the public information from the sealed adoption

record. The District Court reasoned that the allegations against the judges, including Judge Bissoon, flowed directly from the litigation about the earlier state court proceedings and thus were plainly covered by the vexatious litigant injunction. In regard to attorney Jones, the document that Jones allegedly wrongfully disclosed was the state court's memorandum opinion terminating Coulter's parental rights. As found by the District Court, this memorandum opinion was at the heart of the state proceedings and many of the prior federal proceedings challenging the handling of the state proceedings, see, e.g., *Coulter v. Doerr*, 486 F. App'x 227. Thus, the allegations in the amended complaint against attorney Jones also were "related to" the state court proceedings and covered by the vexatious litigant injunction.

In the alternative, the District Court concluded that, even if the amended complaint were not struck, it would still fail under Fed. R. Civ. P. 8(a) and Fed. R. Civ. P. 12(b)(6). The Court reasoned, in pertinent part, that the judicial defendants were absolutely immunized from suit, see *Azubuko v. Royal*, 443 F.3d 302, 303 (3d Cir. 2006) (*per curiam*), and that, with respect to the allegations against attorney Jones, Coulter was attempting, improperly, to relitigate a matter that had already been decided adversely to her in the prior cases. Moreover, Jones, an attorney in private practice, did not appear to be a state actor under 42 U.S.C. § 1983.

Coulter appeals. The appellees have filed motions for summary affirmance, which Coulter opposes. Coulter has filed a motion to change venue, and motions to recuse Chief Circuit Judge D. Brooks

Smith and Circuit Judges Theodore A. McKee,
Thomas L. Ambro, Michael A. Chagares, Kent A.
Jordan, Thomas M. Hardiman, Joseph A.
Greenaway, Jr., Thomas I. Vanaskie, Patty Shwartz,
Cheryl Ann Krause, L. Felipe Restrepo, Anthony J.
Scirica, Robert E. Cowen, Jane R. Roth, and Julio M.
Fuentes.

We will grant the appellees' motions and summarily affirm the order of the District Court because no substantial question is presented by this appeal, Third Circuit LAR 27.4 and I.O.P. 10.6. "[T]his Court has made clear that a pattern of groundless and vexatious litigation will justify an order prohibiting further filings without permission of the court." *Chippis v. U.S. Dist. Court for the Middle Dist. of Pa.*, 882 F.2d 72, 73 (3d Cir. 1989) (citing *Gagliardi v. McWilliams*, 834 F.2d 81 (3d Cir. 1987)); *In re: Oliver*, 682 F.2d 443 (3d Cir. 1982)). Having reviewed the record and the submissions on appeal, we conclude that the District Court correctly held that Coulter's amended complaint was barred in its entirety by Judge Bissoon's vexatious litigant order enjoining her from filing any more civil rights complaints against the persons involved in the termination of her parental rights and her criminal prosecution.

For the foregoing reasons, we will summarily affirm the order of the District Court striking and dismissing Coulter's amended complaint. Coulter's motion to change venue and ten motions to recuse are denied as moot because none of the judges she

names in her motions has participated in this appeal.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

JEAN COULTER, Appellant

v.

Case No. 17-2950

CATHY BISSOON, et. al., Appellees

MOTION FOR CHANGE OF VENUE

NOW COMES, Appellant, JEAN COULTER ("Coulter"), and files Motion for Change of Venue, asking This Honorable Court transfer this matter to another Circuit for consideration and determination. In support of this request, Coulter states :

1.) The Instant Matter was initially filed in the Western District of Pennsylvania, but due to Defendant Bissoon's position in the Western District, the Court, *sua sponte*, Ordered that a jurist from outside of the Western District be assigned to hear the case.

2.) The Appellees in the Instant Matter include six (6) Judges regularly assigned to the Third Circuit Court of Appeals, and thus, it is believed that Full Bench Recusal is similarly required in this appeal.

3.) Pursuant to the decision of the United States Supreme Court in Norwood v. Kirkpatrick, 349 US 29 - Supreme Court 1955, transfer of a case "in the interests of justice" pursuant to 28 U. S. C. § 1404 (a) is appropriate :

"28 U. S. C. § 1404 (a) authorizes certain
6a.

transfers of any civil action from state to state for the convenience of witnesses or of parties, or in the interests of justice. The purpose was to adopt for federal courts the principles of forum non conveniens. Ex Parte Collett, 337 U. S. 55. These are broad and imprecise and involve such considerations as the state of the court's docket. Gulf Oil Corp. v. Gilbert, 330 U. S. 501." (Emphasis supplied.)"

4.) Recusal of each and every Judge within the Third Circuit Court of Appeals is obviously required as a "reasonable person" would clearly have strong feelings that the colleagues of the six (6) Defendants/ Appellees who also serve in the same court, would be less likely to be able to make findings in a completely impartial manner. But also important is the fact that the availability for En Banc Reconsideration of the Panel's decision would be essentially meaningless when such a large percentage of the available jurists would already have been part of the consideration of the matter.

WHEREFORE, Coulter requests This Honorable Court to Order the Instant Appeal transferred out of the Third Circuit for determination.

Respectfully Submitted,

Jean Coulter, Appellant

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

JEAN COULTER, Appellant

v.

Case No. : 17-2950

CATHY BISSOON, et. al., Appellees

MOTION FOR RECUSAL of D. BROOKS SMITH,
Chief Judge of the Third Circuit

NOW COMES Jean Coulter, Appellant, and files Motion for Recusal, requesting This Honorable Court, Recuse. In support of this Request, Coulter states:

1.) This Honorable Court took part in the En Banc Reconsideration of Appellant Jean Coulter's appeal at 16-3053, where the Panel affirmed District Judge Cathy Bissoonn's dismissal of District Court Case Number 2-15-cv-00967 (Jean Coulter v. James P. Coulter) for Lack of Subject Matter Jurisdiction.
2.) In Coulter's Motion for Reconsideration of the Appellate Panel's decision, Coulter informed This Honorable Court, as well as "all the other available circuit judges of the circuit in regular active service", of circumstances which prove that District Judge Cathy Bissoon has previously, willfully, taken steps to compel the Federal District Court Clerk, to assign any case filed by Jean Coulter, exclusively to District Judge Cathy Bissoon :

"CIVIL DOCKET FOR CASE #: 2:12-cv-01050-
CB- RCM ... IT IS HEREBY ORDERED, ...

8a.

the following procedure shall be implemented by the Clerks Office with respect to any documents filed by Plaintiff in the future:

(1) The Clerk's Office shall file any documents submitted by Plaintiff in due course. Plaintiff shall remain responsible for any applicable filing fees.

(2) Plaintiff's filings shall then be submitted to the undersigned ..." (page 1 of Petition for En Banc Reconsideration / Rehearing in 163053)

3.) Further, Appellant Coulter, in the Petition for En Banc Reconsideration of the Panel's decision in 16-3053, explained that Judge Bissoon's acts in 12-cv-1050 constitute the commission, by District Judge Cathy Bissoon, of a serious Federal Felony, specifically 18 U.S. Code § 241 - Conspiracy against rights :

"18 U.S. Code § 241 - Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

9a.

They shall be fined under this title or imprisoned not more than ten years, or both; ..."

(page 2 of Petition for En Banc
Reconsideration / Rehearing in 16-3053)

4.) All Federal Court Judges, including This Honorable Court, are required to comply with the Code of Conduct for Federal Judges.

Canon 3(B)(5) of the Code of Conduct, requires every Federal Judge to report the criminal actions by any other judge, and "be candid and honest with disciplinary authorities." Further, when "available, reporting the conduct to the appropriate authorities" is also required :

Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently,
(B) Administrative Responsibilities, (5)
A judge should take appropriate action upon learning of reliable evidence indicating the likelihood that a judge's conduct contravened this Code or a lawyer violated applicable rules of professional conduct.

...
COMMENTARY Canon 3B(5). Appropriate action may include direct communication with the judge or lawyer, other direct action if available, reporting the conduct to the appropriate authorities, or, when the judge believes that a judge's or lawyer's conduct is caused by drugs, alcohol, or a medical condition, making a confidential referral to an assistance program. Appropriate action may also include responding to a subpoena to

testify or otherwise participating in judicial or lawyer disciplinary proceedings; a judge should be candid and honest with disciplinary authorities."

5.) And, while it was certainly patently obvious, Coulter went on to explain that District Judge Bissoon's actions in 12-cv-1050, were clearly a violation of 18 U.S. Code § 241 - Conspiracy against rights, as Bissoon's actions were obviously intended to (and successfully did) violate Appellant Coulter's Right to Due Process :

"... And, the actions by Cathy Bissoon clearly were intended to violate Coulter's Rights - and successfully have done so. Further, Cathy Bissoon's actions are clearly outside of the scope of authority of a Judge in the District Court unless that judge has been given responsibility for Administrative decisions, as the Chief Judge possesses. Cathy Bissoon was not a "Chief Judge" and indeed has never at any time been the "Chief Judge" in any Federal District Court. Thus Judge Bissoon's actions were committed under the "Color of Law", rather than with the "Authority of Law!" (page 6 of Petition for En Banc Reconsideration / Rehearing in 16-3053)

6.) This Honorable Court is required to report Judge Bissoon's actions by the Code of Conduct for Federal Judges, yet This Honorable Court has not made that Report to Law Enforcement. Thus, This Honorable Court is responsible for the commission of a Misdemeanor, specifically, 18 U.S. Code § 4 -

Misprision of felony :

"18 U.S. Code § 4 - Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

7.) The standard requiring recusal was explained by Justice Scalia, who delivered the opinion of the Supreme Court of the United States in Liteky v. United States, 510 US 540 - Supreme Court 1994 :

Section 455(a) of Title 28 of the United States Code requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." This case presents the question whether required recusal under this provision is subject to the limitation that has come to be known as the "extrajudicial source" doctrine.

8.) Further, as explained in the decision of the United States Supreme Court for Liljeberg v. Health Services Acquisition Corp., 486 US 847 - Supreme Court 1988 :

"The goal of section 455(a) is to avoid even the appearance of partiality. If it would appear to a reasonable person that a judge has knowledge of facts that would give him an

interest in the litigation then an appearance of partiality is created even though no actual partiality exists"

WHEREFORE, Recusal is required, as This Honorable Court has consciously chosen to take acts which constitute the commission of an actual crime, where Appellant Coulter is the victim of that crime. Thus a "reasonable person" would clearly have expectations that This Honorable Court is incapable of ruling in an unbiased manner in any matter involving Jean Coulter.

Respectfully Submitted,

Jean Coulter, Appellant

Identical Motions for Recusal were filed for each Third Circuit Judge who took part in the En Banc decision for Coulter v. Coulter - in all of cases for which Petition for Writ of Prohibition is under consideration at this time

U.S. District Court
Western District of Pennsylvania (Pittsburgh)
CIVIL DOCKET
FOR CASE #: 2:12-cv-01050-CB-RCM
COULTER v. RAMSDEN et al
Assigned to: Judge Cathy Bissoon

Date Filed # Docket Text
12/18/2012 33

IT IS HEREBY ORDERED that Plaintiff's 13
Praeipe to Waive Oral Argument is DENIED, as
13a.

stated above.

IT IS FURTHER ORDERED that counsel appearing at the December 17, 2012, hearing shall submit motions for costs and fees, along with supporting documentation, on or before December 28, 2012, if appropriate. Plaintiff shall file her responses thereto on or before January 9, 2013.

IT IS FURTHER ORDERED that Coulter v. Ramsden, No. 12-1050, is DISMISSED, with PREJUDICE, as duplicative.

IT IS FURTHER ORDERED that Coulter v. Mahood, No. 12-1241, is DISMISSED, with PREJUDICE, as duplicative.

IT IS FURTHER ORDERED that Plaintiff is designated a vexatious litigant, and is prohibited from filing any additional civil actions related to or arising from the state court proceedings involving her criminal conviction for assaulting her minor child, and/or the subsequent termination of her parental rights. Given Plaintiff's history of ignoring the orders of this Court, the following procedure shall be implemented by the Clerks Office with respect to any documents filed by Plaintiff in the future:

(1) The Clerk's Office shall file any documents submitted by Plaintiff in due course. Plaintiff shall remain responsible for any applicable filing fees.

(2) Plaintiff's filings shall then be submitted to the undersigned for screening. This Court will strike any filings that are in violation of this order.

(3) Any filings that do not run afoul of this order, as determined by this Court, will be

allowed to remain on the docket, and will be assigned in accordance with Clerk's Office procedures in the same manner as filings submitted by a litigant who is not subject to a vexatious litigant order.

IT IS FURTHER ORDERED that any violations of the above vexatious litigant order by Plaintiff will result in the imposition of sanctions and a possible order holding Plaintiff in contempt of court.

IT IS FURTHER ORDERED that, to the extent that any future filings by Plaintiff are appropriate, Plaintiff shall refrain from the use of abusive language. Consistent with Rule 11 of the Federal Rules of Civil Procedure, Plaintiff also shall not file any motions that she knows to be without merit. Failure to comply with this order will result in the imposition of sanctions and a possible order holding Plaintiff in contempt of court.

IT IS FURTHER ORDERED that Plaintiff shall comply with any and all orders of this Court. Failure to do so will result in the imposition of sanctions and a possible order holding Plaintiff in contempt of court. In the event that any future order conflicts with the above vexatious litigant order, the later order will control. As more fully stated in the Order.

Signed by Judge Cathy Bissoon on 12/18/2012.

A copy of this Order was mailed to Plaintiff at her address of record. (dad) (Entered: 12/18/2012)