



Appendix A  
Third Circuit Order(s)/  
Reargument(s) for C.A. No. 26-1847

DLD-140

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 26-1847

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IN RE: KENNETH R. TALLEY; KRISTINA KAREN TALLEY;  
KURT R. COSTELLO,  
Petitioners

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On a Petition for Writ of Mandamus to the  
United States District Court for the District of Delaware  
(Related to 1:25-cv-00662)

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Submitted Pursuant to Rule 21, Fed. R. App. P.  
May 28, 2026

Before: RESTREPO, PORTER, and MONTGOMERY-REEVES, *Circuit Judges*

(Opinion filed: June 8, 2026)

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OPINION\*

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PER CURIAM

Kenneth R. Talley, Kristina K. Talley, and Kurt R. Costello ("Petitioners") have filed a pro se petition for a writ of mandamus asking us to intervene in their civil action filed in the District Court. We will deny the petition.

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

Petitioners filed suit in the United States District Court for the District of Delaware related to eviction proceedings brought against Kenneth Talley. Petitioners' complaint is difficult to follow, but they seemingly alleged a host of civil rights violations in connection with this eviction. Petitioners also moved to recuse District Judge Maryellen Noreika, alleging that her rulings were biased and legally incorrect. Judge Noreika denied Petitioners' motion, noting that Petitioners' allegations were "conclusory and unfounded."

Petitioners have now filed a mandamus petition in this Court asking us to compel the District Judge's recusal under § 455. As they did in the District Court, Petitioners suggest, without any factual support, that the District Judge engaged in *ex parte* communications (but does not identify with whom), tampered with court records, and developed personal relationships with other lawyers and judicial officers, which undermines her ability to be impartial.

We will deny the petition. Mandamus may be used to review a judge's refusal to recuse pursuant to 28 U.S.C. § 455(a). *See Alexander v. Primerica Holdings, Inc.*, 10 F.3d 155, 163 (3d Cir. 1993). Recusal under § 455(a) is required where "a reasonable person, knowing all the acknowledged circumstances, might question the district court judge's continued impartiality." *Id.* at 164. To the extent that Petitioners seek recusal based on an appearance of partiality, we see no evidence of bias or any other reason why Judge Noreika should recuse herself from Petitioners' case. *See* 28 U.S.C. § 455; *In re Kensington Int'l Ltd.*, 368 F.3d 289, 301 (3d Cir. 2004). Petitioners' mere disagreement with the District Judge's rulings is not an adequate basis for recusal. *See Securacomm*

*Consulting, Inc. v. Securacom Inc.*, 224 F.3d 273, 278 (3d Cir. 2000). To the extent Petitioners seek other relief, this mandamus proceeding may not be used as a substitute for an appeal. *See Madden v. Myers*, 102 F.3d 74, 77 (3d Cir. 1996).

Accordingly, we will deny the mandamus petition.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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No. 26-1847

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In re: KENNETH R. TALLEY; KRISTINA KAREN TALLEY; KURT R. COSTELLO,  
Petitioners

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(D.C. Civil No. 1:25-cv-00662)

ORDER

Present: CHAGARES, Chief Judge, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO,  
BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES,  
CHUNG, BOVE, III and MASCOTT, Circuit Judges

The petition for rehearing filed by petitioners in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the the Court en banc, is denied.

BY THE COURT,

s/ David J. Porter  
Circuit Judge

Dated: August 3, 2026

kr/cc: Kenneth R. Talley  
Kristina Karen Talley  
Kurt R. Costello  
Nicholas E. Skiles, Esq.



Appendix B  
Federal District Court Order(s)/  
Reargument(s) for C.A. No. 25-662

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                |   |                      |
|--------------------------------|---|----------------------|
| KENNETH R. TALLEY, et al.,     | ) |                      |
|                                | ) |                      |
| Plaintiffs,                    | ) |                      |
|                                | ) |                      |
| v.                             | ) | C.A. No. 25-662 (MN) |
|                                | ) |                      |
| THE STATE OF DELAWARE, et.al., | ) |                      |
|                                | ) |                      |
| Defendants.                    | ) |                      |

**ORDER**

At Wilmington, this 23rd day of January 2026;

On May 29, 2025, pro se Plaintiffs Kenneth R. Talley and Kristina K. Talley (“Mr. Talley” and “Ms. Talley,” respectively) commenced this action by filing a complaint against Defendants The State of Delaware, Legal Services Corporation of Delaware and Riverdale Park, LLC alleging the following five (5) causes of action seemingly all stemming from the sale and eviction of Mr. Talley, his (now-deceased) wife Janice and Ms. Talley from a residence in Milton, Delaware and misappropriation of state funds: (1) Violations of Plaintiffs’ Fifth Amendment Rights, (2) Civil Conspiracy and/or Collusion; (3) Fraud and Misrepresentation; (4) Elder Abuse Pursuant to Delaware Law Title 31, Chapter 39; and (5) Intentional Infliction of Emotional Distress. (D.I. 2).

As an initial matter, on July 3, 2025, the Court granted Mr. Talley’s application to proceed *in forma pauperis* but, denied Ms. Talley’s application based on her annual income and ordered her to pay the \$405.00 filing fee within thirty (30) days of the date of the order. (D.I. 13). More than two months later, on September 8, 2025, Ms. Talley appealed the denial of her *in forma pauperis* application. (D.I. 33). By Order dated December 24, 2025, the Court of Appeals dismissed the appeal for failure to pay the filing fee. (D.I. 55). Ms. Talley has failed to pay the filing fee in this action.

Turning to pending motions before the Court filed by pro se Plaintiffs<sup>1</sup>: Motion for Joinder and Motion for Leave to Proceed *In Forma Pauperis* (D.I. 16); Motion to Request a New Judge in Federal District Court; Motion for Reargument for Denial of *In Forma Pauperis* (D.I. 17); Motion to Intervene (D.I. 24); Writ of Mandamus (D.I. 29); Motion to Extend Time (D.I. 30) (to effect service of process); Request for Arraignment by Prior Pleading; Notice of Removal (D.I. 35); Request for Arraignment by Prior Pleading; Notice of Removal (D.I. 36); Motion for Entry of Default (D.I. 49); and Motion to Challenge Certificate of Service Submitted by Defendant State of Delaware (D.I. 50). For the reasons set forth below, these motions will be DENIED.

1. **Motion for Joinder and Motion for Leave to Proceed *In Forma Pauperis* (D.I. 16).** This motion is filed by non-party, Kurt R. Costello. The motion appears to seek removal of a Delaware Justice of the Peace Court action (“JP Court Action”) and a Delaware Superior Court action (“Superior Court Action”) to this Court for joinder into this civil action revolving around an ejectment of Mr. Costello and Mr. Talley by Riverdale Park, LLC. Mr. Costello also moves for leave to proceed *in forma pauperis*. The Court first notes that the JP Court Action referenced appears to be against Ms. Talley only. (D.I. 16-2). As for the Superior Court Action, the motion does not set forth sufficient information to determine if Mr. Costello has met the timeliness requirements for removal. Therefore, the motion will be denied without prejudice. In turn, Mr. Costello’s motion for leave to proceed *in forma pauperis* (D.I. 16 at 9, 16-1, Appendix C) will be denied as moot.

2. **Motion to Request a New Judge in Federal District Court; Motion for Reargument for Denial of *In Forma Pauperis* (D.I. 17).** Plaintiffs request a new judge stating

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<sup>1</sup> In total, Plaintiffs have filed 17 motions and Defendants have filed 3 motions. Any motion not addressed in this order will be addressed in due course.

that the undersigned “cannot effectively preside over the case due to specific conflicts and or biases that are obvious” stating such unsupported statements as:

using the judge’s office to obtain special treatment for friends, relatives, John Carney, and or counsel, including Kathleen Jennings . . . engaging in partisan political activity and or making inappropriately partisan statements; treating these *pro se* litigants in a demonstrably egregious and hostile manner; engaging intentional discrimination on the basis of age, or disability; retaliating against complainants for participating in the judicial conduct and disability complaint process against other judicial officers, including retaliating against complainants for reporting or disclosing judicial misconduct or disability; and failing to call to the attention of the relevant district chief judge or circuit chief judge any reliable information reasonably likely to constitute judicial misconduct or disability.

(*Id.* at 4-5).

The motion further states that the undersigned has “close ties to all of the defendants” and “previously represented some of the defendants during private practice.” (*Id.* at 5). And that “on February 7, 2024, [the undersigned] incorrectly referred to the public utility company, Delaware Electric Cooperative, Inc., as an ‘electrician’, where the judicial officer’s bias towards the plaintiffs case is obvious, and its noticeably incorrect that the public utility company is clearly not an ‘individual operating as an electrician’, this is just one of the reasons that shows where this judicial officer is not in compliance with the code of judicial conduct.” (*Id.*).

The Court assumes that Plaintiffs are moving for recusal under 28 U.S.C. § 455. A judge is required to recuse himself “in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. § 455(a). The test for recusal under § 455(a) is whether a “reasonable person, with knowledge of all the facts, would conclude that the judge’s impartiality might reasonably be questioned,” *In re Kensington Int’l Ltd.*, 368 F.3d 289, 301 (3d Cir. 2004), not “whether a judge actually harbors bias against a party,” *United States v. Kennedy*, 682 F.3d 244,

258 (3d Cir. 2012). Under § 455(b)(1), a judge is required to recuse himself “[w]here he has a personal bias or prejudice concerning a party.” Under either subsection, the bias necessary to require recusal generally “must stem from a source outside of the official proceedings.” *Liteky v. United States*, 510 U.S. 540, 554 (1994); *Selkridge v. United of Omaha Life Ins. Co.*, 360 F.3d 155, 167 (3d Cir. 2004) (beliefs or opinions which merit recusal must involve an extrajudicial factor). Hence, “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” *Liteky*, 510 U.S. at 555.

Here, all of Plaintiffs’ allegations are conclusory and unfounded. The undersigned does not have any bias, positive or negative, or impartiality towards any party in this action. It may be that Plaintiffs are dissatisfied with rulings in this case or a related case, but that is not grounds for recusal. Taking all allegations together, there is simply no evidence supporting recusal and, therefore, the motion will be denied.

Additionally, Ms. Talley moves under Rule 59(e) of the Federal Rules of Civil Procedure for reconsideration of the denial of her *in forma pauperis* application citing funeral expenses for her mother and residential rents that she is responsible to pay as “new evidence and or clarify[ication for] any issues that led to the denial.” (D.I. 17 at 10). In the motion, Ms. Talley once again states that her annual income is \$29,904.00 and that her rent for the home she lives in is \$1,800.00. (*Id.* at 11). She lists additional rent paid for two homes in Delaware in which she does not reside and in which Mr. Talley may or may not reside<sup>2</sup> totaling \$5,445.00 annually (\$453.75 monthly). In her original *in forma pauperis* application, Ms. Talley includes the same annual income (\$29,904.00) and a higher number for rent (\$1,850.00). (D.I. 8).

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<sup>2</sup> The motion states that Mr. Talley is being evicted from one home and ejected from the other. (D.I. 17 at 11)

The standard for obtaining relief under Rule 59(e) is difficult to meet. The purpose of a motion for reconsideration is to “correct manifest errors of law or fact or to present newly discovered evidence.” *Max’s Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999). A Rule 59(e) motion to alter or amend judgment “must rely on one of three grounds: (1) an intervening change in controlling law; (2) the availability of new evidence; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.” *Lazaridis v. Wehmer*, 591 F.3d 666, 669 (3d Cir. 2010) (citing *N. River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)).

Ms. Talley has not met the standard for reconsideration and, therefore, the motion will also be denied. Ms. Talley has failed to pay the filing fee in this case as directed by the Court (D.I. 13). Ms. Talley shall pay the filing fee within thirty (30) days of this order. Failure to do so shall result in dismissal of Ms. Talley from this case.

3. **Motion to Intervene (D.I. 24).** In this motion, Plaintiffs are asking the Court to intervene in Delaware State Court actions to prevent the eviction of Mr. Talley. (D.I. 24). This Court has no ability to provide the relief requested. Therefore, the motion will be denied.

4. **Writ of Mandamus (D.I. 29).** Plaintiffs move under Rule 24 of the Federal Rules of Civil Procedure which addresses intervention, not mandamus. That rule does not provide a basis for the Court to grant the relief requested, as such the motion will be denied.<sup>3</sup>

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<sup>3</sup> To the extent, Plaintiffs intended to move under the All Writs Act, a federal court has jurisdiction to issue a writ of mandamus only “in aid” of its jurisdiction. *See* 28 U.S.C. § 1651(a). As such, a federal court may issue a writ of mandamus only if there is an independent basis for subject matter jurisdiction. *See United States v. Christian*, 660 F.2d 892, 894 (3d Cir. 1981) (“Before entertaining” a petition for a writ of mandamus, the court “must identify a jurisdiction that the issuance of the writ might assist.”). Plaintiffs have not asserted any such jurisdiction, and the Court is unable to identify one.

And, to the extent, Plaintiffs are seeking mandamus under 28 U.S.C. § 1361, federal courts have jurisdiction “in the nature of mandamus to compel an officer or employee of the

5. **Motion to Extend Time (D.I. 30) (to effect service of process).** This motion will be denied as moot. All defendants have appeared, and none has raised a defense of improper service. (D.I. 4 (Answer by Riverdale Park, LLC); D.I. 10 (motion to dismiss by Legal Service Corporation of Delaware); D.I. 39 (motion to dismiss by the State of Delaware)).

6. **Request for Arraignment by Prior Pleading; Notice of Removal (D.I. 35); Request for Arraignment by Prior Pleading; Notice of Removal (D.I. 36).**

Both of these motions only contain a coversheet with the District Court caption. All subsequent pages are pleadings filed in state court actions. Therefore, it is unclear the intended purpose of these motions and they will be denied.

7. **Motion for Entry of Default (D.I. 49).** Plaintiffs move for entry of default pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. (D.I. 49 at 1, 6-7). As stated above, all defendants have appeared. Therefore, this motion will be denied as moot.

8. **Motion to Challenge Certificate of Service Submitted by Defendant State of Delaware (D.I. 50).** Plaintiffs challenge service on Ms. Talley (and no other Plaintiff) by the State of Delaware. Ms. Talley complains that the State of Delaware has served papers on her at 28470 Pocahantas Avenue, Millsboro, Delaware despite knowing that she lives in Philadelphia. The Complaint, filed by Plaintiffs, lists two addresses for Ms. Talley, one of which is 28470 Pocahantas Avenue, Millsboro, Delaware (D.I. 2 at 14), and the Court has not located any filing on the docket deleting that address. The Court will thus deny Ms. Talley's motion. The Court will, however, treat Ms. Talley's motion as a request that future service upon her, should she remain in the case, be made at the Philadelphia address listed in the Complaint.

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United States or any agency thereof to perform a duty owed to plaintiff." Here, Plaintiffs seek relief from alleged "elder abuse and wanton negligence by state employees/actors." (D.I. 29 at 10). They do not allege that any federal officer, employee, or agency failed to perform a duty owed to him.

THEREFORE, for the reasons set forth above, IT IS HEREBY ORDERED that:

1. Kristina K. Talley shall pay the filing fee of \$405.00 within thirty (30) days of the date of this Order. Failure to do so shall result in her dismissal from this action. As this deadline has already been extended, no further extensions will be granted.

2. Plaintiffs' Motion for Joinder and Motion for Leave to Proceed *In Forma Pauperis* (D.I. 16) is DENIED without prejudice.

3. Plaintiffs' Motion to Request a New Judge in Federal District Court; Motion for Reargument for Denial of *In Forma Pauperis* (D.I. 17) is DENIED.

4. Plaintiffs' Motion to Intervene (D.I. 24) is DENIED.

5. Plaintiffs' Writ of Mandamus (D.I. 29) is DENIED.

6. Plaintiffs' Motion to Extend Time (D.I. 30) (to effect service of process) is DENIED AS MOOT.

7. Plaintiffs' Request for Arraignment by Prior Pleading; Notice of Removal (D.I. 35) is DENIED.

8. Plaintiffs' Request for Arraignment by Prior Pleading; Notice of Removal (D.I. 36) is DENIED.

9. Plaintiffs' Motion for Entry of Default (D.I. 49) is DENIED AS MOOT.

10. Plaintiffs' Motion to Challenge Certificate of Service Submitted by Defendant State of Delaware (D.I. 50) is DENIED. If Ms. Talley remains in the case, all service on her shall be at the Philadelphia address listed in the Complaint or such other address as she informs the Court is appropriate.

  
The Honorable Maryellen Noreika  
United States District Judge

## U.S. District Court

## District of Delaware

## Notice of Electronic Filing

The following transaction was entered on 4/14/2026 at 2:16 PM EDT and filed on 4/13/2026

**Case Name:** Talley et al v. The State of Delaware et al

**Case Number:** 1:25-cv-00662-MN

**Filer:** Kenneth R. Talley  
Kristina Karen Talley

**Document Number:** 74

**Docket Text:**

**MOTION for Reconsideration of D.I. [62] Order Denying in Forma Pauperis - filed by Kenneth R. Talley, Kristina Karen Talley. (Attachments: # (1) Envelope)(mpb)**

**1:25-cv-00662-MN Notice has been electronically mailed to:**

Paul Enterline pge@comcast.net

Nicholas E. Skiles nskiles@swartzcampbell.com

Bryan Patrick Smith bsmith@swartzcampbell.com

Aaron E. Moore aemoore@mdwgc.com, frsmith@mdwgc.com

**1:25-cv-00662-MN Filer will deliver document by other means to:**

Kenneth R. Talley  
28470 Pocahontas Ave  
Millsboro, DE 19966

Kristina Karen Talley  
2353 E. Cumberland Street  
Philadelphia, PA 19125

The following document(s) are associated with this transaction:

**Document description:**Main Document

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9ea7a8b5812579b3d06ad068f607bedd18a7d5c04427db9885448c031e478]]

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