



2014 Decisions

Opinions of the United
States Court of Appeals
for the Third Circuit

11-12-2014

In Re: Jason Kokinda

Precedential or Non-Precedential: Non-Precedential

Docket No. 14-4164

Follow this and additional works at: http://digitalcommons.law.villanova.edu/thirdcircuit_2014

Recommended Citation

"In Re: Jason Kokinda" (2014). *2014 Decisions*. 1151.

http://digitalcommons.law.villanova.edu/thirdcircuit_2014/1151

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2014 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository. For more information, please contact Benjamin.Carlson@law.villanova.edu.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 14-4164

IN RE: JASON KOKINDA,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Eastern District of Pennsylvania
(Related to D.C. Civil No. 5:13-cv-02202)

Submitted Pursuant to Rule 21, Fed. R. App. P.
November 6, 2014

Before: AMBRO, JORDAN and KRAUSE, Circuit Judges

(Filed: November 12, 2014)

OPINION*

PER CURIAM

Petitioner Jason Kokinda seeks a writ of mandamus compelling Judges Jan E. DuBois and Lynne A. Sitarski to recuse themselves from the consideration of his habeas petition, which is pending before the Eastern District of Pennsylvania. He also moves for the recusal of Chief Judge Theodore A. McKee from any role in review of the mandamus petition. For the reasons that follow, we will deny the petition and motion.

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

Kokinda is a state prisoner who is serving a sentence for four counts of unlawful contact with a minor and a related charge. In 2013, he petitioned the District Court for habeas relief. Thereafter, he filed multiple motions seeking the recusal of the presiding District Judge and the Magistrate Judge to whom the matter was referred, all of which were denied. Kokinda now seeks mandamus relief from the Court. He alleges that the judges are biased against him, apparently as a result of being caught in a web of corruption initiated by Governor Corbett, who he claims is invested in Kokinda's alleged malicious prosecution for political reasons. In a separate motion, he also asserts that Chief Judge McKee should not be permitted to review this mandamus petition based on his alleged affiliation with nefarious political influences.

A mandamus petition is a proper means of challenging a district judge's refusal to recuse pursuant to 28 U.S.C. § 455. In re Kensington Int'l Ltd., 368 F.3d 289, 300-01 (3d Cir. 2004). Mandamus, however, is a drastic remedy that is available only in extraordinary cases. In re Diet Drugs Prods. Liab. Litig., 418 F.3d 372, 378 (3d Cir. 2005) (citations and internal quotations omitted). A petitioner seeking the issuance of a writ of mandamus must have no other adequate means to obtain the desired relief, and must show that the right to issuance of the writ is clear and indisputable. Id. at 378-79. Kokinda falls far short of this high bar.

Kokinda's petition is rich in conspiracy theories and hyperbole—drawing on alleged acts of the Illuminati and various mafias, among other things. The wrongs of which he accuses the judges include racketeering, attempted murder, and treason. The

petition lacks, however, specific facts in support of such grave allegations and does not provide a basis upon which a legal argument for recusal may stand. Indeed, Kokinda argues in his petition that he “doesn’t have to prove any direct evidence of any of this, and he would be stupid if he did give evidence to the criminals who are trying to kill him....” Rather, he points to his dissatisfaction with the outcome of various motions as evidence of the implicit corruption of the judges.

Under 28 U.S.C. § 455(a), recusal is required when a “reasonable person, with knowledge of all the facts, would conclude that the judge’s impartiality might reasonably be questioned.” In re Kensington, 368 F.3d at 301 (citation and quotations omitted). Nonetheless, “[w]e have repeatedly stated that a party’s displeasure with legal rulings does not form an adequate basis for recusal.” Securacomm Consulting, Inc. v. Securacom Inc., 224 F.3d 273, 278 (3d Cir. 2000) (citations omitted). Moreover, recusal is not required on the grounds of “unsupported, irrational, or highly tenuous speculation.” In re United States, 666 F.2d 690, 694 (1st Cir. 1981). Kokinda has not shown a clear and indisputable right to issuance of the writ. Accordingly, his petition for a writ of mandamus will be denied. Kokinda’s motion to recuse Chief Judge McKee is denied as moot, as the Chief Judge has not been involved in adjudicating Kokinda’s mandamus petition.