NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

JEAN COULTER, Appellant v. JAMES E. MAHOOD, BRIAN McKINLEY, WILDER & MAHOOD, BUTLER COUNTY CHILDREN AND YOUTH SERVICES, THOMAS J. DOERR, ROCHELLE GRAHAM, DENNIS McCURDY, ELIZABETH A. SMITH, SUSAN LOPE, MELANIE S. ROTHEY, CHARLES J. AVALLI, LOUIS C. LONG, PENNSYLVANIA BAR ASSOCIATION AND ALLEGHENY COUNTY BAR ASSOCIATION, Appellees	:	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 584 WDA 2013

Appeal from the Order Entered February 8, 2013,
In the Court of Common Pleas of Allegheny County,
Civil Division, at No. G.D. 13-745.

BEFORE: SHOGAN, OLSON and WECHT, JJ.

MEMORANDUM BY SHOGAN, J.: FILED JUNE 20, 2014

Appellant, Jean Coulter ("Coulter"), appeals *pro se* from the order granting the motion to dismiss filed in the Court of Common Pleas of Allegheny County in this matter brought against James E. Mahood, Brian McKinley, Wilder & Mahood, Butler County Children and Youth Services, the Honorable Thomas J. Doerr, Rochelle Graham, Dennis McCurdy, Elizabeth A.

Smith, Susan Lope, Melanie S. Rothey, Charles J. Avalli, Louis C. Long, the Pennsylvania Bar Association, and the Allegheny County Bar Association (collectively "Appellees"). We affirm.

We summarize the protracted history of this case as follows.[1] This matter stems from Coulter's 2007 plea of "no contest" and imprisonment for the crime of aggravated assault against her minor daughter in the Butler County Court of Common Pleas. Butler County Children and Youth Services became involved, and court proceedings related to the minor child were initiated. These resulted in the termination of Coulter's parental rights on January 12, 2011. When Coulter was not represented by counsel in the Butler County matters, she proceeded *pro se*. Judge Doerr presided over the custody action, which ultimately resulted in the termination of Coulter's parental rights to her daughter. Rochelle Graham is a caseworker at Butler County Children and Youth Services. Dennis McCurdy, Esquire, was counsel for Butler County Children and Youth Services. Elizabeth Smith, Esquire, and Susan Lope, Esquire, represented Coulter's daughter as Guardian ad Litem and court appointed counsel, respectively.

In October 2007, Coulter and Wilder & Mahood executed an agreement for Wilder & Mahood to represent Coulter in the Butler County proceedings.

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[1] We note that there are six other related appeals before this panel. Nos. 582 WDA 2013, 583 WDA 2013, 585 WDA 2013, 586 WDA 2013, 678 WDA 2013, and 679 WDA 2013. These appeals have been decided in separate decisions filed concurrently with this Memorandum.

James Mahood represented Coulter through May of 2009. Brian McKinley is also an attorney who was employed by the law firm Wilder & Mahood. As part of the agreement with Wilder & Mahood, the parties contracted to resolve any disputes by binding arbitration before a panel of the Allegheny County Bar Association Special Fee Dispute Committee ("the Committee"). Melanie Rothey, Esquire, Charles Avalli, Esquire, and Louis Long, Esquire, were members of the Committee which handled Coulter's fee dispute with Wilder & Mahood.

Coulter, believing that she and Wilder & Mahood had a separate verbal contract capping her fees, notified Wilder & Mahood that she would cease payments. On May 15, 2009, Coulter invoked the arbitration clause in the agreement. Wilder & Mahood withdrew its representation of Coulter. Wilder & Mahood sought a date for the arbitration from the Committee. After the hearing date was set and she was provided with the names of the members of the arbitration panel, Coulter indicated to the Committee that she would not be prepared for the arbitration and that she objected to the composition of the panel. Coulter was provided a ninety-day continuance; however, her objection to the composition of the panel was rejected.

An arbitration hearing was held on May 14, 2010, at which both parties appeared. After hearing the evidence, the arbitration panel awarded Wilder & Mahood approximately $97,000.00, plus interest at the rate of one

percent per month as specified in the parties' agreement. Following the entry of the award, Coulter sent a letter to the Committee, requesting that the panel consider certain documentary evidence; however, Coulter did not seek to vacate or modify the arbitration award. On June 17, 2010, Wilder & Mahood filed a Motion to confirm the arbitration award. Coulter filed a response to the Motion. On July 27, 2010, the trial court entered an Order confirming the arbitration award due to Coulter's failure to file a timely petition to vacate or modify the arbitration award. Coulter filed an appeal from the Order on August 21, 2010. The Superior Court affirmed the arbitration award on February 22, 2012.

Prior and subsequent to filing the instant matter, Coulter filed multiple complaints in Allegheny County against persons and entities involved in the Butler County proceedings. Coulter has also filed numerous and duplicative appeals with this Court over the past several years. (***See***, ***e.g.***, ***In the Interest of A.C.***, No. 555 WDA 2011, slip op. (Pa. Super. filed Mar. 12, 2012); ***Wilder & Mahood, P.C. v. Coulter***, No. 1373 WDA 2010, slip op. (Pa. Super. filed Feb. 22, 2012); ***In re Adoption of A.S.C.***, 2011 Pa. Super. Lexis 5472 (Pa. Super. 2011) (unpublished memorandum); ***In re Adoption of A.C.***, 23 A.3d 584 (Pa. Super. 2010) (unpublished memorandum); ***In re A.C.***, 23 A.3d 576 (Pa. Super. 2010) (unpublished memorandum)). Coulter claims that the termination proceedings in Butler County were unjust, that

various persons conspired to deprive her of her rights, and that she is entitled to monetary relief in excess of $250,000,000.00. Coulter has also claimed civil rights violations.

In addition, Coulter initiated multiple actions in the United States District Court for the Western District of Pennsylvania prior to filing this matter in state court. These actions arose out of the same Butler County proceedings. The federal court defendants were sued due to their participation in the proceedings and Coulter's alleged injuries resulting from her dissatisfaction with the results of those proceedings. All of Coulter's federal complaints were dismissed with prejudice by the United States District Court. The United States District Court found Coulter to be a vexatious litigant and prohibited her from filing additional civil actions relating to or arising from the state court proceedings involving her criminal conviction and the subsequent termination of her parental rights. ***See, e.g., Coulter v. Ramsden, et al.***, 2012 WL 6592597 (W.D.Pa. 2012).

Cognizant of this history, the trial court dismissed Coulter's complaint pursuant to Pa.R.C.P. 233.1 after oral argument on February 8, 2013. Argument was not recorded. Coulter filed a petition for reconsideration, which the trial court denied. This appeal followed.

Coulter presents the following issues for our review, which we have renumbered for ease of disposition:

> [1]. HAS APPEAL BEEN TIMELY FILED?
>
> [2]. MUST THE TRIAL COURT'S ORDER DISMISSING THE COMPLAINT PURSUANT TO RULE 233.1 BE OVER-TURNED BECAUSE THE TRIAL COURT PROPERLY DETERMINED THAT [42 Pa.C.S.A. § 5103(b)] APPLIES, BUT DISMISSED DESPITE THE FACT THAT THE PREVIOUS DECISION DID NOT RESOLVE OR EVEN CONSIDER "STATE" CLAIMS?
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> [3]. MUST REMAND TO AN UNBIASED COURT BE ORDERED TO DEVELOP A RECORD, WITHOUT PREJUDICE, IN ORDER TO PERMIT INCLUSION OF COULTER'S POSITION, AS LOCAL RULES, VIOLATION OF LOCAL RULES AND BIAS/DISABILITY OF THE TRIAL COURT, HAVE RESULTED IN A RECORD OF IRRELEVANT AND/OR FORBIDDEN FACTS AND DEVOID OF FACTS RELATED TO PLAINTIFF'S ARGUMENT OF HER POSITION - IN ORDER TO CORRECT A FUNDAMENTAL INJUSTICE AND ASSURE DUE PROCESS?
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> [4]. MUST THE DECISIONS OF THE TRIAL COURT BE OVER-TURNED BECAUSE THE TRIAL COURT WAS WITHOUT JURISDICTION, DUE TO ASSIGNMENT OF A SENIOR JUDGE IN VIOLATION OF STATUTE, RULES AND THE PENNSYLVANIA CONSTITUTION?
>
> [5]. DOES RULE 233.1 VIOLATE EQUAL PROTECTION, AS IT HOLDS *PRO SE* PLAINTIFFS TO A MORE STRINGENT STANDARD THAN PLAINTIFFS REPRESENTED BY LICENSED COUNSEL?

Appellant's Brief at 5 (renumbered for purposes of discussion).

Coulter argues that her appeal in this matter has been timely filed. Appellant's Brief at 27-28. We believe that this issue is presented as an answer to the trial court's comment that the appeal is untimely. Trial Court Order, 4/4/13, at 1.

The timeliness of an appeal implicates our jurisdiction, and we thus cannot address the merits of the other issues raised by Coulter before

determining whether the appeal was timely filed. ***Krankowski v. O'Neil***, 928 A.2d 284, 285 (Pa. Super. 2007). It is undisputed that a notice of appeal must be filed within thirty days of the disputed order. Pa.R.A.P. 903(a). Specifically, Rule 903(a) provides that "the notice of appeal . . . shall be filed within 30 days after the entry of the order from which the appeal is taken." Pa.R.A.P. 903(a).

Our review of the certified record reflects that on March 7, 2013, Coulter filed the instant appeal from the order dated February 8, 2013, which granted the motion to dismiss. Record Entry 30. Accordingly, Coulter satisfied the requirements of Pa.R.A.P. 903(a) requiring the notice of appeal to be filed within thirty days of the February 8, 2013 order. Therefore, because this appeal was timely filed, this Court has jurisdiction to hear this appeal.

Coulter next argues that the trial court's order dismissing the complaint pursuant to Pa.R.C.P. 233.1 must be overturned because, while the trial court properly determined that 42 Pa.C.S.A. § 5103(b) applied, the trial court erroneously dismissed Coulter's complaint when the previous decision in federal court did not resolve, or even consider, state claims. Appellant's Brief at 16-21. Coulter insinuates that her case should have been transferred from federal court pursuant to 42 Pa.C.S.A. § 5103(b), because the federal court merely determined that it lacked subject matter

jurisdiction over the state claims presented. Upon review, we conclude that this claim does not merit relief.

In 42 Pa.C.S.A. § 5103, the Pennsylvania Legislature addressed the transfer of matters which have been erroneously filed in other courts. The pertinent language of the statute provides as follows:

> **§ 5103. Transfer of erroneously filed matters.**
>
> **(a) General rule. --** If an appeal or other matter is taken to or brought in a court or magisterial district of this Commonwealth which does not have jurisdiction of the appeal or other matter, the court or magisterial district judge shall not quash such appeal or dismiss the matter, but shall transfer the record thereof to the proper tribunal of this Commonwealth, where the appeal or other matter shall be treated as if originally filed in the transferee tribunal on the date when the appeal or other matter was first filed in a court or magisterial district of this Commonwealth. A matter which is within the exclusive jurisdiction of a court or magisterial district judge of this Commonwealth but which is commenced in any other tribunal of this Commonwealth shall be transferred by the other tribunal to the proper court or magisterial district of this Commonwealth where it shall be treated as if originally filed in the transferee court or magisterial district of this Commonwealth on the date when first filed in the other tribunal.
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> **(b) Federal cases. --**
>
> (1) Subsection (a) shall also apply to any matter transferred or remanded by any United States court for a district embracing any part of this Commonwealth. In order to preserve a claim under Chapter 55 (relating to limitation of time), a litigant who timely commences an action or proceeding in any United States court for a district embracing any part of this Commonwealth is not required to commence a protective action in a court or before a magisterial district judge of this Commonwealth. Where a matter is filed in any United States court for

> a district embracing any part of this Commonwealth **and the matter is dismissed by the United States court for lack of jurisdiction**, any litigant in the matter filed may transfer the matter to a court or magisterial district of this Commonwealth by complying with the transfer provisions set forth in paragraph (2).
>
> (2) Except as otherwise prescribed by general rules, or by order of the United States court, such transfer may be effected by filing a certified transcript of the final judgment of the United States court and the related pleadings in a court or magisterial district of this Commonwealth. The pleadings shall have the same effect as under the practice in the United States court, but the transferee court or magisterial district judge may require that they be amended to conform to the practice in this Commonwealth. Section 5535(a)(2)(i) (relating to termination of prior matter) shall not be applicable to a matter transferred under this subsection.

42 Pa.C.S.A. § 5103(a), (b) (emphasis added).

As a prefatory matter, we note that our review of the certified record before us reflects that Coulter initiated the instant matter in the Court of Common Pleas of Allegheny County at Docket Number GD-13-745 with the filing of a sixteen-page complaint on January 10, 2013. Record Entry 1. Previously, on May 23, 2012, Coulter filed a fourteen-page "complaint for civil action" in the United States District Court for the Western District of Pennsylvania, which was docketed at D.C. Civ. No. 12-cv-00641. Record

Entry 9 at Exhibit 3.[2] Our thorough review of the two documents indicates that there are similar complaints filed with the different courts.

Coulter's allegation that her matter in federal court was dismissed due to a lack of jurisdiction lacks merit. We take notice of the decision rendered by the United States Court of Appeals for the Third Circuit, which addressed Coulter's appeal from the dismissal of Coulter's complaint at D.C. Civ. No. 12-cv-00641, and is reflective of the fact that the federal court did not dismiss the matter on the basis of a lack of jurisdiction. ***Coulter v. Allegheny County Bar Association, et al.***, 496 Fed. Appx. 167 (3rd Cir. 2012). The following statements contained within the decision of the Third Circuit Court of Appeals are of note:

> We conclude that there is no set of facts from which we can infer any understanding between the state court judges and the other defendants to deprive Coulter of her constitutional rights. Coulter refers to "improper connections" and a "conspiratorial relationship" among the "co-conspirators"; however, she pleads only vague inferences and allegations. Bare assertions of joint action or a conspiracy are not sufficient to survive dismissal at the pleading stage. In sum, as nothing in the complaint demonstrates the existence of any concerted effort between the state court judges and the other defendants, we agree with the Magistrate Judge's determination that Coulter failed to demonstrate that the non-judicial defendants acted under color of state law. Of course, the two judges, if sued directly for their own actions, are absolutely immune from civil suits for money damages arising from their judicial acts. It was

[2] In her federal court action at D.C. Civ. No. 12-cv-00641, Coulter included Judge Robert Colville of the Court of Common Pleas of Allegheny County, who handled an appeal of her arbitration matter as an additional defendant.

> thus appropriate for the District Court to dismiss Coulter's complaint.

Id. at 169 (citations omitted).

Thus, to the extent that Coulter claims that the instant matter should be considered to be a transfer from federal court, pursuant to 42 Pa.C.S.A. § 5103(b)(1), such argument fails because it is evident that the federal court did not dismiss Coulter's case solely for lack of jurisdiction.

Furthermore, even if the federal court had dismissed Coulter's complaint solely due to a lack of jurisdiction, we observe that Coulter failed to transfer her case from federal court properly as contemplated by 42 Pa.C.S.A. § 5103(b)(2). Our review of the record reflects that Coulter failed to file "a certified transcript of the final judgment of the United States court and the related pleadings." 42 Pa.C.S.A. § 5103(b)(2). Hence, any allegation that the Court of Common Pleas of Allegheny County erred in not accepting the matter as a transfer from federal court lacks merit.

With regard to Coulter's claim that the trial court improperly dismissed her complaint pursuant to Pa.R.C.P. 233.1, we conclude that her argument fails. We review this claim under the following standard:

> 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).

Pa.R.C.P. 233.1 provides, in relevant part, as follows:

> **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.
>
> * * *
>
> (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.

Pa.R.C.P. 233.1(a), (c). The explanatory comment to Rule 233.1 provides as follows:

> 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.
>
> Upon the filing of an action by a *pro se* plaintiff, a defendant may file a motion to dismiss a pending action provided that (1) the *pro se* plaintiff is alleging the same or related claims against the same or related defendants, and (2) the claims have already been resolved pursuant to a settlement agreement or a court proceeding. The new rule also gives the trial court discretion to bar the *pro se* litigant from filing further litigation against the same or related defendants raising the same or related claims without leave of court.

Pa.R.C.P. 233.1, Cmt.

In ***Gray v. Buonopane***, 53 A.3d 829 (Pa. Super. 2012), a panel of this Court addressed the obvious intent behind, and applicability of, Rule 233.1 as follows:

> Rule 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.
>
> Following scrutiny of the Rule's text, we discern the extent of our Supreme Court's intent in the Rule's allowance of summary proceedings for dismissal substantially less exacting than those required by the Rules of Court for counseled actions, as well as the absence from the language of any of the elements

encompassed under the doctrines of *res judicata* and collateral estoppel. The Rule's language is noteworthy, specifically, in its omission of any reference to existing procedures under the Rules for obtaining judgment prior to trial, see, *e.g.*, Pa.R.C.P. 1028(a)(4) (Preliminary Objections (Demurrer)), 1034 (Judgment on the Pleadings), 1035.2 (Summary Judgment). Indeed, the very fact that Rule 233.1 was promulgated in the presence of this series of rules and procedures, that by design tests every aspect of the legal and factual merit of a plaintiff's claim, announces the Supreme Court's focus and intent with exceptional clarity. Quite simply, the Court saw no reason to expose already beleaguered defendants to the demands of extended litigation and the rigor of technical procedural rules for summary disposition when the claims at issue have already been addressed in a substantive manner and resolved.

* * *

Contrary to Gray's suggestion, neither the language of the Rule nor the explanatory comment 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*." 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 identi[t]y of the quality or capacity in the persons for or against whom the claim is made. In view of the circumstances under which the rule was

> promulgated, "the mischief to be remedied," and the object to be attained, we find these multiple omissions indicative of the manner in which the Supreme Court intends Rule 233.1 to operate and dispositive of Gray's current actions.

Gray, 53 A.3d at 835-836 (citations and some quotation marks omitted).

As previously stated, in the federal court action docketed at D.C. Civ. No. 12-cv-00641 as well as herein, Coulter acted *pro se*. In both cases, Coulter raised similar causes of action against the same or related defendants. The main difference between the claims Coulter raises now in comparison to the claims she raised in the federal court action is that here, she has altered language in a minor fashion and alleges additional instances where the defendants failed to properly handle her case before the Court of Common Pleas of Butler County. We further observe that the claims in the federal court action were resolved pursuant to a court proceeding, *i.e.*, the federal court entered an order dismissing the action.

Thus, the parties and claims in the federal court action and in the present action were sufficiently related to inform the trial court that Coulter's current claim has been considered and resolved. Coulter has failed to establish that the trial court abused its discretion by dismissing her complaint pursuant to Pa.R.C.P. 233.1 or by barring her from pursuing additional *pro se* litigation against Appellees pursuant to Pa.R.C.P. 233.1(c). Accordingly, we conclude that her contrary claim lacks merit.

In her next issue, Coulter contends that this matter should be remanded "to an unbiased court." Appellant's Brief at 21-23. In her purported argument, Coulter alleges that the trial court made its determination "without permitting argument." Appellant's Brief at 21. Essentially, Coulter makes various bald allegations of bias on the part of the trial judge.

We need not reach the merits of this issue because the argument section of Appellant's brief attempting to address this claim consists of general statements unsupported by any discussion and analysis of relevant legal authority. Pennsylvania Rule of Appellate Procedure 2119 addresses the argument section of appellate briefs and provides, in part, as follows:

> **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 . . . such discussion and citation of authorities as are deemed pertinent.

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

"The Rules of Appellate Procedure state unequivocally that each question an appellant raises is to be supported by discussion and analysis of pertinent authority." ***Estate of Haiko v. McGinley***, 799 A.2d 155, 161 (Pa. Super. 2002); Pa.R.A.P. 2119(b). "Appellate arguments which fail to adhere to these rules may be considered waived, and arguments which are not appropriately developed are waived. Arguments not appropriately

developed include those where the party has failed to cite any authority in support of a contention." ***Lackner v. Glosser***, 892 A.2d 21, 29-30 (Pa. Super. 2006) (citations omitted). This Court will not act as counsel and will not develop arguments on behalf of an appellant. ***Irwin Union National Bank and Trust Company v. Famous and Famous and ATL Ventures***, 4 A.3d 1099, 1103 (Pa. Super. 2010) (citing ***Commonwealth v. Hardy***, 918 A.2d 766, 771 (Pa. Super. 2007)). Moreover, we observe that the Commonwealth Court, our sister appellate court, has aptly noted that "[m]ere issue spotting without analysis or legal citation to support an assertion precludes our appellate review of [a] matter." ***Boniella v. Commonwealth***, 958 A.2d 1069, 1073 n.8 (Pa. Cmwlth. 2008) (quoting ***Commonwealth v. Spontarelli***, 791 A.2d 1254, 1259 n.11 (Pa. Cmwlth. 2002)).

Here, the argument portion of Coulter's brief does not contain meaningful discussion of, or citation to, relevant legal authority. Appellant's Brief at 21-23. The portion of the argument pertaining to Coulter's issue does contain reference to case law regarding contents of the certified record. However, completely lacking from this section is any discussion or developed analysis relevant to the issue. This lack of analysis precludes meaningful appellate review. Accordingly, because Coulter's argument on this issue fails

to set forth any meaningful discussion of relevant legal authority, we conclude that the issue is waived.

Coulter next baldly asserts that the decision of the trial court should be overturned due to a lack of "jurisdiction." Appellant's Brief at 23-26. Coulter contends that the assignment of Senior Judge O'Reilly to her case in the court of common pleas was in violation of statute, rules, and the Pennsylvania Constitution. We conclude that this issue is waived.

First, we observe that Coulter is not challenging the jurisdiction of the Court of Common Pleas of Allegheny County. Indeed, Coulter initiated her action in the Court of Common Pleas. As such, an allegation by Coulter that the Court of Common Pleas lacked jurisdiction would be meritless. Rather, we consider Coulter's instant claim to be that the particular senior judge hearing her case, *i.e.*, Judge O'Reilly, should have recused himself or been disqualified from hearing Coulter's case because he was not properly appointed to his position as a senior judge of the Court of Common Pleas of Allegheny County.

Pennsylvania Rule of Appellate Procedure 302(a) provides that "issues not raised in the lower court are waived and cannot be raised for the first time on appeal." Pa.R.A.P. 302(a). Hence, only claims properly presented in the lower court are preserved for appeal. Indeed, even issues of constitutional dimension cannot be raised for the first time on appeal.

Estate of Fridenberg, 982 A.2d 68, 76 (Pa. Super. 2009) (citing ***Commonwealth v. Strunk***, 953 A.2d 577, 579 (Pa. Super. 2008)).

> It is well established that trial judges must be given an opportunity to correct errors at the time they are made. "[A] party may not remain silent and afterwards complain of matters which, if erroneous, the court would have corrected."

Strunk, 953 A.2d at 579 (citations omitted).

It is the duty of the party asserting disqualification to file the petition in a timely fashion. ***Rizzo v. Haines***, 555 A.2d 58, 70 (Pa. 1989). A recusal motion that is not timely filed will be denied. ***Id***. "It is well-settled that a party seeking recusal or disqualification **must raise the objection at the earliest possible moment**, or that party will suffer the consequence of being time barred." ***Commonwealth v. Stafford***, 749 A.2d 489, 501 (Pa. Super. 2000) (quotation marks and citations omitted) (emphasis added). In addition, it is an appellant's obligation to demonstrate which appellate issues were preserved for review. Pa.R.A.P. 2117(c), 2119(e).

Our review of the certified record reflects that Coulter failed to challenge the authority of Judge O'Reilly by seeking disqualification prior to his disposition of her case. Likewise, Coulter has failed to demonstrate where she has preserved this issue for appellate review. Accordingly, we are constrained to conclude that this issue is waived.

In her final issue, Coulter contends that she is arguing that Pa.R.C.P. 233.1 violates the equal protection clause of the United States

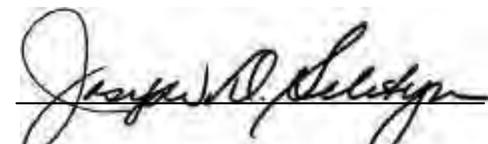
Constitution. Appellant's Brief at 28-29. We conclude that any such argument is waived.

"Issues not raised in the lower court are waived and cannot be raised for the first time on appeal." Pa.R.A.P. 302(a). This waiver rule applies even if the issue raised for the first time on appeal is a constitutional question. ***ABG Promotions v. Parkway Publishing, Inc.***, 834 A.2d 613, 619 (Pa. Super. 2003) (citing ***Brown v. Philadelphia Tribune Co.***, 668 A.2d 159 (Pa. Super. 1995)).

Our review of the record reflects that Coulter did not present any objection to the constitutionality or validity of Rule 233.1 to the trial court. Similarly, she has failed to demonstrate where she has preserved this issue for review by this Court. Accordingly, this issue is waived, and we decline to address it.

Order affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 6/20/2014