

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

62-64 Bank Street, LLC v. Carmine Amelio

Amelio · No. 3:25-cv-1994 (VAB) · Decided June 26, 2026

SUMMARY

The United States District Court for the District of Connecticut denies Carmine Amelio’s motion for reconsideration of the determination that the court lacks subject matter jurisdiction. The court rejects asserted bases for diversity jurisdiction, federal-question jurisdiction based on a counterclaim, and removal jurisdiction under 28 U.S.C. § 1443, and orders the case remanded to Connecticut Superior Court.

CASE DETAILS

COURT	United States District Court for the District of Connecticut
WRITING FOR THE COURT	Victor A. Bolden
JURISDICTION	United States District Court for the District of Connecticut
DECIDED	June 26, 2026
DOCKET	3:25-cv-1994 (VAB)
DISPOSITION	remanded
PROCEDURAL POSTURE	Defendant moved for reconsideration of the court's prior determination that it lacked subject matter jurisdiction over the removed case. The court denied reconsideration and remanded the case to the Connecticut Superior Court.
STANDARD OF REVIEW	Reconsideration is governed by a strict standard and generally requires the movant to identify controlling decisions or data that the court overlooked and that could reasonably be expected to alter the prior conclusion.
PRECEDENTIAL VALUE	unknown
PARTIES	Carmine Amelio v. 62-64 Bank Street, LLC

TOPICS

- motion for reconsideration
- subject matter jurisdiction
- civil procedure
- federalism

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Defendant satisfied the strict standard for reconsideration by identifying overlooked controlling law or evidence that would alter the prior jurisdictional ruling.
2. Whether the submitted deed and utility bill established Defendant's New York domicile for purposes of diversity jurisdiction under 28 U.S.C. § 1332.
3. Whether Defendant's counterclaim could establish federal-question jurisdiction over Plaintiff's complaint under 28 U.S.C. § 1331.
4. Whether Defendant established removal jurisdiction under 28 U.S.C. § 1443.

HOLDINGS

1. Reconsideration was properly denied because Defendant identified no controlling decision, overlooked evidence, or intervening change in law that could reasonably alter the prior conclusion that the federal court lacked subject matter jurisdiction.
2. The deed and utility bill did not establish Defendant's domicile in New York as of the relevant filing and removal dates; therefore, Defendant failed to establish diversity jurisdiction under 28 U.S.C. § 1332.
3. A counterclaim, even one based exclusively on federal substantive law, cannot provide federal-question jurisdiction over the plaintiff's complaint.
4. Defendant failed to establish removal jurisdiction under § 1443 because his claim did not involve specific civil rights stated in terms of racial equality, and the record did not show that Connecticut courts would deny or be unable to enforce those rights.

KEY QUOTATIONS

“The standard for granting [a motion for reconsideration] is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” (70 F.3d at 257)

“federal jurisdiction [cannot] rest upon an actual or anticipated counterclaim.” (556 U.S. at 60, 62)

“First, it must appear that the right allegedly denied the removal petitioner arises under a federal law ‘providing for specific civil rights stated in terms of racial equality.’” (421 U.S. at 219)

FACTUAL BACKGROUND

Plaintiff brought a state-court complaint that Defendant attempted to remove to federal court. To support diversity jurisdiction, Defendant submitted a New York property deed and a utility bill, but the utility bill postdated the relevant filing and removal dates, and the deed alone did not establish domicile. Defendant also relied on a counterclaim and asserted that removal was authorized under 28 U.S.C. § 1443 based on alleged federal civil-rights violations.

PROCEDURAL HISTORY

The action originated in Connecticut Superior Court and was removed by Defendant Amelio. Judge Spector determined in a Recommended Ruling that the federal court lacked subject matter jurisdiction. Amelio moved for reconsideration, asserting diversity jurisdiction, federal-question jurisdiction based on his counterclaim, and removal jurisdiction under 28 U.S.C. § 1443. The court rejected each argument, denied reconsideration, closed the federal case, and remanded it to the Connecticut Superior Court, Judicial District of Litchfield at Torrington.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Clerk was directed to close the federal case and remand it to the Connecticut Superior Court, Judicial District of Litchfield at Torrington.

CASES CITED

- Shrader v. CSX Transportation, Inc., 70 F.3d 255, 257 (2d Cir. 1995)
- United States v. Balde, 943 F.3d 73, 88 (2d Cir. 2019)
- Van Buskirk v. United Group of Companies, Inc., 935 F.3d 49, 53-54 (2d Cir. 2019)
- Palazzo ex rel. Delmage v. Corio, 232 F.3d 38, 42 (2d Cir. 2000)
- United States v. Venturella, 391 F.3d 120, 125 (2d Cir. 2004)
- Vaden v. Discover Bank, 556 U.S. 49, 60, 62 (2009)
- New York v. Smith, 494 F. App'x 138, 140 (2d Cir. 2012)
- Johnson v. Mississippi, 421 U.S. 213, 219 (1975)
- State of Georgia v. Rachel, 384 U.S. 780, 792, 803 (1966)
- Chestnut v. People of the State of New York, 370 F.2d 1, 3 (2d Cir. 1966)
- City of Greenwood, Mississippi v. Peacock, 384 U.S. 808, 827-28 (1966)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT 62-64 BANK STREET, LLC, Plaintiff, No. 3:25-cv-1994 (VAB) v. CARMINE AMELIO, Defendant. RULING AND ORDER ON MOTION FOR RECONSIDERATION For the following reasons, Mr. Amelio's Motion for Reconsideration is DENIED. See Mot. to Amend/Correct Order, ECF No. 26. "The standard for granting [a motion for reconsideration] is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir.

1995). The Court finds that the Defendant has not met this standard. “Federal courts, as courts of limited jurisdiction, have subject matter jurisdiction only where Congress has conferred such jurisdiction on them.” *United States v. Balde*, 943 F.3d 73, 88 (2d Cir. 2019). Mr. Amelio argues that this Court has subject matter jurisdiction but provides nothing new on this record.

Nor does he point to any intervening change of controlling law that alters Judge Spector’s finding that no subject matter jurisdiction exists under any of these statutes. In essence, Mr. Amelio raises three analytically distinct arguments under 28 U.S.C. §§ 1331, 1332, and 1443 as to why this Court has subject matter jurisdiction over the Plaintiff’s Complaint.

Each of these arguments, however, fails. First, Mr. Amelio argues that the Court has diversity jurisdiction under 28 U.S.C. § 1332. In his objection to the Recommended Ruling, Mr. Amelio submitted a deed to a property in New York listed in his and his joint tenant’s name, as well as a utility bill for that property listing his joint tenant as the account holder.

See Exhibits A & B to Obj., ECF No. 22. But Mr. Amelio’s utility bill, which provides a billing summary for November 4, 2025 to December 8, 2025, cannot establish his domicile as of the date of this Complaint’s filing in state court, and subsequent removal attempts, in 2024. See *Van Buskirk v. United Grp. of Cos.*, 935 F.3d 49, 54 (2d Cir. 2019) (“The attached exhibits were similarly unavailing... the piece of mail was dated January 2018-both after the July 2016 filing.”).

And the deed alone does not establish that New York is “the place where a person has his true fixed home and principal establishment, and to which, whenever he is absent, he has the intention of returning.” *Van Buskirk*, 935 F.3d at 53 (quoting *Palazzo ex rel. Delmage v. Corio*, 232 F.3d 38, 42 (2d Cir. 2000)); see *Van Buskirk*, 935 F.3d at 54 (“As a threshold matter, residence alone is insufficient to establish domicile for jurisdictional purposes.”); see also *United States v. Venturella*, 391 F.3d 120, 125 (2d Cir.

2004) (“One may have more than one residence in different parts of this country or the world, but a person may have only one domicile.”). Second, Mr. Amelio argues that his counterclaim provides subject matter jurisdiction over the Plaintiff’s Complaint under 28 U.S.C. § 1331. But, notwithstanding Mr. Amelio’s assertions to the contrary, “federal jurisdiction [cannot] rest upon an actual or anticipated counterclaim.” *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009).

Indeed, “counterclaims, even if they rely exclusively on federal substantive law, do not qualify a case for federal-court cognizance.” *Id.* at 62. Third and finally, Mr. Amelio argues that subject matter jurisdiction exists under 28 U.S.C. § 1443, and that the Recommended Ruling did not address this argument.

To establish subject matter jurisdiction under Section 1443, see *New York v. Smith*, 494 Fed.Appx. 138, 140 (2d Cir. 2012) (“§ 1443(1) provides both a procedural mechanism and subject matter jurisdiction...” (internal citations and quotations omitted)), Mr. Amelio must satisfy a two-

pronged test. “First, it must appear that the right allegedly denied the removal petitioner arises under a federal law ‘providing for specific civil rights stated in terms of racial equality.’” *Johnson v. Mississippi*, 421 U.S. 213, 219 (1975) (citing *State of Georgia v. Rachel*, 384 U.S. 780, 792 (1966)). “Second, it must appear, in accordance with the provisions of § 1443(1), that the removal petitioner is ‘denied or cannot enforce’ the specified federal rights ‘in the courts of (the) State.’” *Johnson*, 421 U.S. at 219 (citing *Rachel*, 384 U.S. at 803).

Mr. Amelio has not met this standard. His claim does not involve a violation of “specific civil rights stated in terms of racial equality.” *Johnson*, 421 U.S. at 219; see *Chestnut v. People of State of New York*, 370 F.2d 1, 3 (2d Cir. 1966) (“[N]ot every violation of the equal protection clause will justify removal, but only those violations involving discrimination based on race”) (citation and internal quotation marks omitted).

And nothing in this record suggests that any state law prevents him from raising his alleged violations of the law in state court. *City of Greenwood, Miss. v. Peacock*, 384 U.S. 808, 827 (1966) (“It is not enough to support removal under § 1443(1) to allege or show that the defendant’s federal equal civil rights have been illegally and corruptly denied... in advance of trial... or that that defendant is unable to obtain a fair trial in a particular state court...

The civil rights removal statute does not require and does not permit the judges of the federal courts to put their brethren of the state judiciary on trial.”) (emphasis in original); see also *Chestnut*, 370 F.2d at 3 (“This provision normally requires that the ‘denial be manifest in a formal expression of state law[.]’” (citing *Rachel*, 384 U.S. at 803); cf. *Smith*, 494 Fed.Appx. at 140 (“Nor does *Smith* offer any reason for us to conclude that the New York State courts cannot protect whatever federal rights he may assert... or that those rights will inevitably be denied.”)) (quoting *City of Greenwood v. Peacock*, 384 U.S. at 828).

Accordingly, the Defendant’s motion for reconsideration is denied and this case will be remanded to state court. The Clerk of Court is respectfully directed to close this case here, and remand it to the Connecticut Superior Court, Judicial District of Litchfield at Torrington. SO ORDERED at New Haven, Connecticut, this 26th day of June, 2026. /s/ Victor A. Bolden VICTOR A. BOLDEN
UNITED STATES DISTRICT JUDGE