UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

RONALD L. WHITWORTH, JR.,)	
)	
Plaintiff,)	
)	
v.)	**Case No. 2:12-cv-00236-CLS-HGD**
)	
TERRY LOWERY, *et al.*,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

The plaintiff is appealing the magistrate judge's denial of the Motion for

Assignment of Alternate Magistrate Judge. (Docs. 5 & 6, respectively). As grounds

for his appeal the plaintiff states that he has filed a petition based upon 28 U.S.C. §

2255 in which he criticizes Judge Davis because of rulings he made in the plaintiff's

criminal case. The plaintiff also describes an alleged incident which occurred during

his trial when Judge Davis spoke loudly to an attorney, and another when Judge

Davis refused to let an attorney representing the plaintiff withdraw from the case.
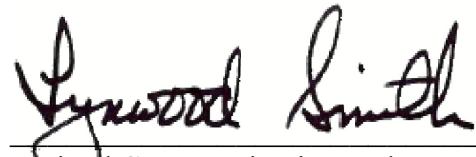
(Doc. 8).

A judge's rulings alone almost never constitute a valid basis for a motion to

recuse. The Supreme Court in *Liteky v. U.S.,* 510 U.S. 540, 555 (1994), said:

> opinions formed by the judge on the basis of facts introduced or events
> occurring in the course of the current proceedings, or of prior
> proceedings, do not constitute a basis for a bias or partiality motion
> unless they display a deep-seated favoritism or antagonism that would

make fair judgment impossible. Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.

The plaintiff has failed to show a deep-seated antagonism that would render fair judgment on the part of Judge Davis impossible. The grounds for this motion are inadequate and do not require disqualification. The court finds that the magistrate judge's order is not clearly erroneous or contrary to law. *See* Rule 72(a), Fed.R.Civ.P. Accordingly, IT IS HEREBY ORDERED that the magistrate judge's order is AFFIRMED, and that the plaintiff's motion for Magistrate Judge Davis to recuse himself is DENIED.

DONE this 7th day of May, 2012.

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United States District Judge