

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|   |   |                                       |
|---|---|---------------------------------------|
| <b>D. ANGELINA KENNEDY,</b>             | ) |                                       |
| <b>Plaintiff,</b>                       | ) |                                       |
|   | ) |                                       |
| <b>v.</b>                               | ) | <b>CIVIL ACTION NO. 17-00114-KD-N</b> |
|   | ) |                                       |
| <b>WARREN PROPERTIES, LLC, et al.,)</b> | ) |                                       |
| <b>Defendants.</b>                      | ) |                                       |

**ORDER**

After due and proper consideration of the issues raised, and a *de novo* determination of those portions of the recommendation to which objection is made, the Report and Recommendations (Doc. 64) of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), and S.D. Ala. GenLR 72(a)(2)(S), and dated November 7, 2017, is **ADOPTED** as the opinion of this Court.

Accordingly, it is **ORDERED** that the motions to dismiss under Federal Rule of Civil Procedure 12(b)(6) (Doc. 19, 22) of Defendants Judge Matthew Green, David Wible, Derrick Williams, and Ashley Rich, and the motion to dismiss of Defendant Michael Kaoui, construed as a motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) (Doc. 24), are **GRANTED**. It is further **ORDERED** that any claims for injunctive and declaratory relief against the foregoing Defendants not dismissed under Rule 12(b)(6) or Rule 12(c) are **DISMISSED without prejudice sua sponte** for lack of standing.

Embedded in Plaintiff's objection<sup>1</sup> is her request for judicial disqualification of Magistrate Judge Nelson. Plaintiff asserts that Magistrate Judge Nelson has shown bias against her and favoritism toward the defendants. In relevant part, 28 U.S.C. § 455 provides that federal

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<sup>1</sup> The Court construes the Plaintiff's reply as an objection to the Report and Recommendation.

judges should disqualify themselves “in any proceeding in which his impartiality might reasonably be questioned” or “[w]here he has a personal bias or prejudice concerning a party[.]”<sup>2</sup> However, Magistrate Judge Nelson’s impartiality cannot reasonably be questioned, nor is there evidence that she has a personal bias or prejudice toward Plaintiff. Instead, Plaintiff’s request is based solely on her disagreement with Magistrate Judge Nelson’s decisions that were not favorable to her. Disagreement with a judge’s decisions is not a basis for disqualification. Accordingly, Plaintiff’s request is DENIED.

**DONE and ORDERED** this the 28th day of November 2017.

/s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**CHIEF UNITED STATES DISTRICT JUDGE**

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<sup>2</sup> The record does not indicate a basis for application of any of the other grounds set forth in the statute.