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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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United States of America,

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No. CV 10-2104-PHX-MHM (DKD)

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Plaintiff,

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No. CR 05-1127-PHX-MHM

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v.

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**ORDER**

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Paul Richard Butts,

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Defendant/Movant.

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On September 30, 2010, Movant Paul Richard Butts, who is confined in the Federal Correctional Institution-Beaumont in Beaumont, Texas, filed a *pro se* Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255. In a November 29, 2010 Order, the Court required Plaintiff to respond to the Motion. On December 16, 2010, Movant filed a Motion for Recusal (Doc. 6).

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Pursuant to 28 U.S.C. § 2255, a prisoner in custody under sentence of a court established by Act of Congress may “move the court **which imposed the sentence** to vacate, set aside, or correct the sentence” (emphasis added). It is therefore the practice of this Court to assign § 2255 motions to the sentencing judge. Moreover, a motion to recuse a judge must demonstrate that any alleged bias or impartiality stems from extrajudicial conduct, *i.e.*, a litigant **may not** seek recusal based on a prior adverse ruling in the case. See Hasbrouck v. Texaco, Inc., 830 F.2d 1513 (9th Cir. 1987) (citing In re Beverly Hills Bancorp, 752 F.2d 1334, 1341 (9th Cir. 1984)) (28 U.S.C. § 455(a) & (b)(1)); United States v. Studley, 783 F.2d 934, 939 (9th Cir. 1986) (same); United States v. Grinnell Corp., 384 U.S. 563, 583 (1966)

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1 (28 U.S.C. § 144). Movant's Motion for Recusal is based on prior adverse rulings in his  
2 criminal case and not on allegations of impartiality stemming from extrajudicial conduct.  
3 The Court will therefore deny the Motion for Recusal.

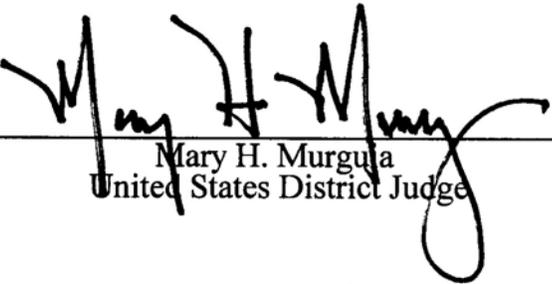
4 **IT IS ORDERED:**

5 (1) The reference to the Magistrate Judge is withdraw with respect to Movant's  
6 December 16, 2010 Motion for Recusal. All other matters must remain with the Magistrate  
7 Judge as appropriate.

8 (2) Movant's December 16, 2010 Motion for Recusal (Doc. 6) is **denied**.

9 DATED this 3<sup>rd</sup> day of January, 2011.

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Mary H. Murgula  
United States District Judge