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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 10-8095-PCT-EHC (JRI)

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Plaintiff,

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No. CR 94-031-PCT-EHC

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vs.

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ORDER

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Ronald Lee Tsosie,

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Defendant/Movant.

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In these proceedings under 28 U.S.C. § 2255, Defendant/Movant (“Movant”) filed two Motions (Doc. 8 & 9) on October 8, 2010 requesting that the Court be disqualified from the case. The two Motions appear to be basically the same. The reference to the Magistrate Judge is withdrawn as to Movant’s Motions (Doc. 8 & 9).

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The Court has considered Movant’s Motions under 28 U.S.C. § 455(a) or (b)(1). Section 455(a) provides that a United States judge “shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” Section 455(b)(1) provides that a judge must also disqualify himself “[w]here he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding[.]” Recusal under § 455(a) and (b)(1) is required only if the bias or prejudice stems from an extrajudicial source, not from conduct or rulings during the course of proceedings. See Hasbrouck v. Texaco, Inc., 842 F.2d 1034, 1046 (9th Cir. 1987), aff’d, 496 U.S. 543 (1990).

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The alleged grounds discussed in Movant’s Motions concern conduct or rulings during the course of the criminal proceedings (see Doc. 4 - Exhibit A (United States v. Ronald Lee

1 Tsosie, No. 95-10068 (9th Cir. April 5, 1996)(Memorandum at 1-5)). The grounds asserted
2 are not a basis for disqualification.

3 Accordingly,

4 **IT IS ORDERED** that the reference to the Magistrate Judge is withdrawn as to
5 Movant's Motions (Doc. 8 & 9).

6 **IT IS FURTHER ORDERED** that Movant's Motions (Doc. 8 & 9) to disqualify are
7 denied.

8 DATED this 27th day of December, 2010.

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Earl H. Carroll
12 United States District Judge
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