IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

KENNETH L. WALLER, JR.
ADC #103829 PLAINTIFF

V. 1:11CV00095 JLH/JTR

WENDY KELLEY, Deputy Director,
Arkansas Department of Correction, et al. DEFENDANTS

ORDER

Plaintiff, Kenneth L. Waller, is a prisoner proceeding *pro se* in this § 1983 action. He has recently filed a Motion arguing that I should recuse because I have entered unfavorably rulings against him in this lawsuit, as well as in *Waller v. Taylor*, 5:13CV00030 JLH/JTR. *See* Doc. #168. Plaintiff also has filed a "Motion for Prohibition" asking that this case be stayed until he can file a judicial complaint against me or file a petition for a writ of mandamus with the Eighth Circuit. *See* Doc. #169.

A judge must "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Because a judge is presumed to be impartial, the "party seeking disqualification bears the substantial burden of proving otherwise." *Am. Prairie Constr. Co. v. Hoich*, 594 F.3d 1015, 1022 (8th Cir. 2010); *U.S. v. Denton*, 434 F.3d 1104, 1111 (8th Cir. 2006). Additionally, the Eighth

Circuit has clarified that a judge's rulings in the current or prior proceeding "do not constitute a basis for a bias or partiality" unless the rulings "display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Id.*

Plaintiff has not made any such showing. Further, there is nothing that prevents me from being fair, unbiased, and impartial in deciding Plaintiff's claims. All of my previous rulings have been based on an impartial application of the law to the facts presented in Plaintiff's cases. Finally, contrary to Plaintiff's unfounded allegations, I have not had *ex parte* communications with anyone, nor have I unreasonably delayed ruling on any matters.

IT IS THEREFORE ORDERED THAT Plaintiff's Motion to Disqualify (Doc. #168) and Motion for Prohibition (Doc. #169) are DENIED.

Dated this 27th day of June, 2013.

UNITED STATES MAGISTRATE JUDGE