

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

**DONALD F. WINNETT
ADC #139544**

PLAINTIFF

v.

Case No. 2:16-cv-13-KGB-BD

ALEX BRAY

DEFENDANT

ORDER

The Court has received the Recommended Disposition submitted by United States Magistrate Judge Beth Deere (Dkt. No. 248). Plaintiff Donald F. Winnett filed objections to the Recommended Disposition (Dkt. Nos. 250, 253). After a review of the Recommended Disposition and Mr. Winnett's objections, as well as a *de novo* review of the record, the Court adopts the Recommended Disposition in its entirety (Dkt. No. 248). It is therefore ordered that defendant Alex Bray's motion for summary judgment is granted (Dkt. No. 203). Mr. Winnett's claims are dismissed with prejudice. It is further ordered that Mr. Winnett's cross-motions for summary judgment are denied (Dkt. Nos. 213, 221, 227, 246). Mr. Winnett's motion for expedited ruling, motion for ruling, motion to appoint counsel, motion for evidentiary hearing, and second motion for ruling are denied as moot (Dkt. Nos. 254, 257, 258, 259, 260).

The Court notes that Mr. Winnett's objections contain inappropriate language and comments that could violate federal law. *See* 18 U.S.C. § 115(a)(1) ("Whoever . . . threatens to assault . . . a United States judge . . . with intent to impede, intimidate, or interfere with such . . . judge . . . while engaged in the performance of official duties, or with intent to retaliate against such . . . judge . . . on account of the performance of official duties, shall be punished as provided in subsection (b)"). This Court cautioned Mr. Winnett against making such remarks by prior Order (Dkt. No. 182). This Court again cautions Mr. Winnett to avoid making such remarks in future communications to the Court.

Mr. Winnett's objections include a motion for a copy of docket entries 248 and 253 (Dkt. No. 253). The motion is granted. The Clerk of the Court is directed to mail Mr. Winnett copies of docket entries 248 and 253.

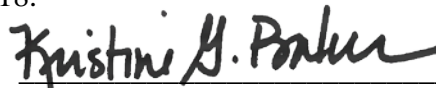
Also before the Court is a filing this Court construes as Mr. Winnett's motion for recusal (Dkt. No. 255). Under 28 U.S.C. §455(a), a judge is required to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." "Disqualification is required if a reasonable person who knew the circumstances would question the judge's impartiality, even though no actual bias or prejudice has been shown." *United States v. Tucker*, 78 F.3d 1313, 1324 (8th Cir. 1996). "A party introducing a motion to recuse carries a heavy burden of proof; a judge is presumed to be impartial and the party seeking disqualification bears the substantial burden of proving otherwise." *Pope v. Fed. Express Corp.*, 974 F.2d 982, 985 (8th Cir. 1992) (citation omitted). Mr. Winnett has not met his burden in this instance. Adverse rulings to motions do not provide Mr. Winnett with an adequate basis for requesting recusal. Mr. Winnett's motion for recusal is denied (Dkt. No. 255). To the extent Mr. Winnett seeks to have changed the name of his filing the Court has construed as a motion for recusal or the name of any other filing, his request is denied (Dkt. No. 256).

It is therefore ordered that:

1. The Recommended Disposition submitted by United States Magistrate Judge Beth Deere is adopted in its entirety (Dkt. No. 248);
2. Mr. Bray's motion for summary judgment is granted (Dkt. No. 203);
3. Mr. Winnett's motions for summary judgment are denied (Dkt. Nos. 213, 221, 227, 246);

4. Mr. Winnett's motion for expedited ruling, motion for ruling, motion to appoint counsel, motion for evidentiary hearing, and second motion for ruling are denied as moot (Dkt. Nos. 254, 257, 258, 259, 260);
5. Mr. Winnett's motion for copies is granted (Dkt. No. 253);
6. Mr. Winnett's motion for recusal is denied (Dkt. No. 255);
7. Mr. Winnett's motion to change the name of his filing is denied (Dkt. No. 256); and
8. Mr. Winnett's claims are dismissed with prejudice.

It is so ordered this 7th day of February, 2018.



Kristine G. Baker
United States District Judge