

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

ROGER D. MOSBY,  
ADC #63018

PLAINTIFF

v.

5:13CV00118-DPM-JTK

LARRY B. MAY, et al.

DEFENDANTS

**ORDER**

This matter is before the Court on Plaintiff's Motions for a Copy of his Complaint (Doc. No. 4) and for "Speedy Recusal" (Doc. No. 5).

In support of his Motion for recusal, Plaintiff states he intends to call me as a witness with respect to the subject matter set forth in his Complaint, based on a communication from me in 2008. In support, he attaches a letter from the Kearney Law Office in Pine Bluff, Arkansas, signed by attorney John L. Kearney.

A judge is required to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). "The question is 'whether the judge's impartiality might reasonably be questioned by the average person on the street who knows all the relevant facts of a case.'" United States v. Deghani, 550 F.3d 716, 721 (8th Cir. 2008) (citation omitted). "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. Federal Exp. Corp., 974 F.2d 982, 985 (8th Cir. 1992).

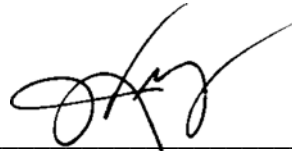
In this particular situation, Plaintiff obviously has me confused with my brothers John L. Kearney and Jeffrey H. Kearney, who practiced law in 2008 in Pine Bluff, Arkansas, as the Kearney Law Firm. Plaintiff provides no other allegations indicating my connection with him or the subject

matter of the present lawsuit, or proof that I have animus toward him, or to show that I cannot faithfully and impartially make decisions based on the law and the facts. Therefore, I will deny his request for my recusal. Accordingly,

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for a Copy of his Complaint (Doc. No. 4) is GRANTED. The Clerk shall forward to Plaintiff a copy of his complaint (Doc. No. 2, pp. 1-47).

IT IS FURTHER ORDERED that Plaintiff's Motion for Speedy Recusal (Doc. No. 5) is DENIED.

IT IS SO ORDERED this 1<sup>st</sup> day of May, 2013.



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JEROME T. KEARNEY  
UNITED STATES MAGISTRATE JUDGE