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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

)	Case No. CV 12-02599 R
)	
In Re: Avram Moshe Perry)	[Adversary Case Number: 1:10-ap-1356]
)	
)	ORDER DENYING APPELLANT'S MOTION TO RECUSE JUDGE REAL
)	
)	[Dkt. No. 6. Referral to DDP at Dkt. No. 7]

This matter comes before the court on Appellant Avram Moshe Perry ("Appellant" or "Perry")'s Affidavit of Prejudic[e] and Peremptory Disqualification of Judge Manuel L. Real Pursuant to 28 U.S.C. § 455(A), which this court will construe as a Motion to Disqualify.¹ Having reviewed Defendant's submission, the court DENIES the motion and adopts the following order.

I. Background

Perry asserts that Judge Real is "bias[ed] and prejudice[d] to Plaintiff." (Mot. ¶ 1.) Several of Perry's allegations are

¹ "The test for personal bias or prejudice in section 144 is identical to that in section 455(b)(1)" United States v. Sibla, 624 F.2d 864, 867 (9th Cir. 1980). "Consequently, a motion properly brought pursuant to section 144 will raise a question concerning recusal under section 455(b)(1) as well as section 144." Id.

1 directed not toward Judge Real, however, but toward court staff.
2 Perry contends, for example, that clerk's office staff improperly
3 assigned his case to Judge Real, never provided him with certain
4 court documents, and improperly refused certain filings. (Id. ¶¶
5 2-3, 5.) Perry further contends that "defendants" misled the
6 bankruptcy court. (Id. ¶ 4.) With respect to Judge Real, Perry
7 asserts that Judge Real "entered an erroneous and late order"
8 denying a motion for reconsideration, and that Judge Real generally
9 has ulterior motives and a sullied reputation. (Id. ¶¶ 9,11.)

10 **II. Discussion**

11 A judge "shall disqualify himself in any proceeding in which
12 his impartiality might reasonably be questioned" and in proceedings
13 in which "he has a personal bias or prejudice concerning a party,
14 or personal knowledge of disputed evidentiary facts concerning the
15 proceeding." 28 U.S.C. § 455(a),(b)(1). The Ninth Circuit has
16 articulated the standard for disqualification under § 455 as
17 follows:

18 The test under § 455(a) is whether a reasonable person with
19 knowledge of all the facts would conclude that the judge's
20 impartiality might reasonably be questioned. Typically, a
21 judge's partiality must be shown to be based on information
22 from extrajudicial sources, although sometimes, albeit
23 rarely, predispositions developed during the course of a
trial will suffice. In the instance where the partiality
develops during the course of the proceedings, it can be the
basis of recusal only when the judge displays a deep-seated
and unequivocal antagonism that would render fair judgment
impossible.

24 F.J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc., 244 F.3d
25 1128, 1144-45 (9th Cir. 2001) (internal quotations and citations
26 omitted).

27 While the court is mindful of Appellant's pro se status, he
28 has not established that Judge Real's impartiality could reasonably

1 be called into question. Though Perry clearly disagrees with Judge
2 Real's ruling regarding Perry's motion for reconsideration, he has
3 not established that Judge Real has received any extrajudicial
4 information or that Judge Real bears a "deep-seated and unequivocal
5 antagonism" toward Perry "that would render fair judgment
6 impossible." F.J. Hanshaw Enters., 244 F.3d at 1144-45.

7 **III. Conclusion**

8 For the reasons state above, Appellant's Motion to Disqualify
9 DENIED.

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13 IT IS SO ORDERED.

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Dated: April 4, 2012

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DEAN D. PREGERSON
United States District Judge