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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STEVEN DWAYNE BROWN,)	Case No. 15-06050-FMO-JEM
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S
)	MOTION TO RECUSE JUDGE
v.)	OLGUIN
)	
SERGIO TREJO, et al.,)	[Dkt. 192]
)	
Defendants.)	
)	

Presently before the court is Plaintiff Steven Dwayne Brown's Motion to Recuse Judge Olguin, (Dkt. 192). Plaintiff seeks to recuse Judge Olguin under 28 U.S.C. § 455(a). Having reviewed Plaintiff's submission, the court DENIES the motion and adopts the following order.

Plaintiff asserts that Judge Olguin has a "deep seated antagonism" toward Plaintiff, as evidenced by Judge Olguin's "tight lipped denials of plaintiff's objections timely filed under 28 U.S.C. § 636(b)(1)(B)." (Pl.'s Mot. at 2). Under Section 455, a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned" and in proceedings in which "he has a personal bias or prejudice concerning

1 a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.”
2 28 U.S.C. § 455(a),(b)(1). The Ninth Circuit has articulated the standard for
3 disqualification under § 455 as follows:

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

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

15 Here, Plaintiff has not established that Judge Olguin's impartiality could
16 reasonably be called into question. Plaintiff claims that “[t]he court deliberately displays
17 antagonism towards plaintiff by not responding to the arguments or pleadings or
18 plaintiff in its orders denying plaintiff relief. . . and by repeating the exact same words to
19 antagonize Plaintiff. . . .” (*Id.* at 3). Plaintiff further argues that Judge Olguin “did not
20 review [the discovery orders] de novo as required by statute.” (*Id.* at 3). Contrary to
21 Plaintiff's representation, the non-dispositive discovery orders to which Plaintiff objects
22 “must be deferred to unless ‘clearly erroneous or contrary to law.’” See *Grimes v. City &*
23 *Cty. of San Francisco*, 951 F.2d 236, 241 (9th Cir. 1991). “Pretrial orders of a magistrate
24 under 636(b)(1)(A) are reviewable under the ‘clearly erroneous and contrary to law’
25 standard; they are not subject to de novo determination.” *Merritt v. Int'l Broth. of*
26 *Boilermakers*, 649 F.2d 1013, 1017 (9th Cir. 1981). Accordingly, the district court did not
27 display antagonism toward Plaintiff by applying the improper standard of review. Nor
28 do the brief denials of Plaintiff's objections constitute sufficient grounds for recusal on
the basis of “deep-seated and unequivocal antagonism” toward Plaintiff “that would

1 render fair judgment impossible" in this action. *F.J. Hanshaw Enters.*, 244 F.3d at 1144-45.
2 Accordingly, Plaintiff's Motion to Recuse Judge Olguin is DENIED.

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4 **IT IS SO ORDERED.**

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6 Dated: December 5, 2017

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A handwritten signature in cursive script, reading "Dean D. Pregerson", written in grey ink. The signature is positioned above a horizontal line.

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DEAN D. PREGERSON

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UNITED STATES DISTRICT JUDGE

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