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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BALWINDER SINGH TUNG,

Plaintiff,

1: 08 CV 00457 OWW WMW PC

vs.

ORDER RE MOTION (DOC 8)

JAMES HARTLEY, et al.,

Defendants.

Plaintiff has filed a motion to disqualify the undersigned from this case. Plaintiff’s sole ground for recusal is an adverse ruling in another case brought by Plaintiff (CV F 95 5362 OWW HGB). In that case, Plaintiff’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 was denied.

The substantive standard for recusal, whether sought under 28 U.S.C. §144 or §455, is the same: “[W]hether a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” United States v. Hernandez, 109 F.3d 1450, 1453 (9<sup>th</sup> Cir. 1997) citing Unites States v. Studley, 783 F.2d 934, 939 (9<sup>th</sup> Cir. 1986) (quotation omitted). The alleged bias must stem from and “extrajudicial source.” Liteky v. United States, 510 U.S. 540 (1994). “[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” Id. at 555; Poland v. Stewart, 92 F.3d 881 (9<sup>th</sup> Cir. 1996).

1 “[O]pinions formed by the judge on the basis of facts introduced or events occurring in the  
2 course of current proceedings, or of prior proceedings, do not constitute a basis for a bias or  
3 partiality motion unless they display a deep-seated favoritism or antagonism that would make fair  
4 judgment impossible.” United States v. Conforte, 624 F.2d 869, 882 (9<sup>th</sup> Cir. 1980), cert. denied,  
5 449 U.S. 1012 (1980) (a judge’s views on legal issues may not serve as a basis for motions to  
6 disqualify).

7 Plaintiff seeks recusal on the grounds of bias and prejudice. Plaintiff’s conclusory  
8 allegations of bias fail to establish legally sufficient grounds for recusal. See Yagman v.  
9 Republic Ins., 987 F.2d 622, 626-27 (9<sup>th</sup> Cir. 1993)(concluding that speculative assertions of  
10 invidious motive are insufficient to show judicial bias). The Court finds that Plaintiff’s motion  
11 fails to meet the standard set forth above. That Plaintiff received an unfavorable ruling does not  
12 demonstrate bias.

13 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion to recuse the  
14 undersigned is denied.

15 IT IS SO ORDERED.

16 **Dated: February 9, 2009**

**/s/ Oliver W. Wanger**  
**UNITED STATES DISTRICT JUDGE**