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Julius Lee Jackson,)	No. CV 1-08-1406-NVW
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
State of California, et al.,)	
)	
Defendants.)	


Before the Court is Plaintiff's Motion to Disqualify District Judge for Bias and Prejudice. (Doc. # 14.) The Motion is based on Plaintiff's dissatisfaction with prior rulings of the Court. That is no basis whatever for disqualification of a judge. A motion for recusal ordinarily may not be based on "prior rulings in the proceeding, or any proceeding, solely because they were adverse." " *Clemens v. United States District Court for the Central District of California*, 428 F.3d 1175, 1178-79 (9th Cir. 2005). When no extrajudicial source is involved, judicial rulings may serve as the basis for disqualification only "in the rarest of circumstances" where they "evidence the degree of favoritism or antagonism" which would "make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994).

While the Court in *Liteky* did not discuss what showing a party would have to make in order to meet this burden, it is clear that he must show something more than a

1 disproportionate number of decisions in the opponent's favor. Litigation is not egalitarian
2 to the extent that courts must allocate rulings equally in favor of each side, regardless of
3 the merits. "A trial judge must be free to make rulings on the merits without the
4 apprehension that if he makes a disproportionate number in favor of one litigant, he may
5 have created the impression of bias. Judicial independence cannot be subservient to a
6 statistical study of the calls he has made during the contest." *In re International Business*
7 *Machines Corp.*, 618 F.2d 923, 929 (2d Cir. 1980). Therefore, the Court's prior rulings
8 do not give rise to any cause for recusal.

9 IT IS THEREFORE ORDERED that Plaintiff's Motion to Disqualify District
10 Judge for Bias and Prejudice (doc. # 14) is denied.

11 DATED this 20th day of April, 2009.

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16 Neil V. Wake
17 United States District Judge
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