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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RONALD YOUNG,
Plaintiff,
v.
C. SISODIA,
Defendant.

Case No. 1:15-cv-00640-LJO-EPG (PC)
ORDER DENYING PLAINTIFF’S MOTION
FOR RECUSAL OF CHIEF JUDGE O’NEILL
AND MOTIONS FOR RECONSIDERATION
(ECF NOS. 55 & 56)

Ronald Young (“Plaintiff”) is proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. The case is now proceeding on Plaintiff’s Second Amended Complaint against defendant C. Sisodia. (ECF Nos. 19, 20, & 23).

On May 22, 2017, Plaintiff filed a motion for entry of default (ECF No. 33) and a motion for default judgment (ECF No. 34). On May 24, 2017, Magistrate Judge Erica P. Grosjean issued an order denying both motions. (ECF No. 35). On June 16, 2017, Plaintiff filed what the Court construed as a motion for reconsideration by the assigned district judge. (ECF No. 37). The motion for reconsideration was denied. (ECF No. 38).

On September 25, 2017, Plaintiff filed a motion for recusal of Chief Judge O’Neill, as well as what the Court construes as motion(s) for reconsideration of the Court’s order denying

1 Plaintiff's motion for reconsideration by the assigned district judge. (ECF Nos. 55 & 56).

2 Plaintiff's motions will be denied.

3 **I. PLAINTIFF'S MOTION FOR RECUSAL**

4 Plaintiff asks that the undersigned be recused "for unreasonable bias and prejudicial
5 misconduct and abuse of authority, by ruling against the 3/2/17 order directing service... Then
6 denying motion for entry of default...." (ECF No. 55, p. 4).

7 A judge is required to disqualify himself if his impartiality might reasonably be
8 questioned. 28 U.S.C. § 455(a). A judge shall also disqualify himself if he has "personal
9 knowledge of disputed evidentiary facts concerning the proceeding." 28 U.S.C. § 455(b)(1). The
10 decision regarding disqualification is made by the judge whose impartiality is at issue. Bernard v.
11 Coyne, 31 F.3d 842, 843 (9th Cir. 1994). The Supreme Court has recognized that:

12 [J]udicial rulings alone almost never constitute a valid basis for a
13 bias or partiality motion. In and of themselves (*i.e.*, apart from
14 surrounding comments or accompanying opinion), they cannot
15 possibly show reliance upon an extrajudicial source; and can only
16 in the rarest circumstances evidence the degree of favoritism or
antagonism required... when no extrajudicial source is involved.
Almost invariably, they are proper grounds for appeal, not for
recusal.

17 Liteky v. United States, 510 U.S. 540, 555 (1994) (citation omitted). "The test is 'whether
18 a reasonable person with knowledge of all the facts would conclude that the judge's impartiality
19 might reasonably be questioned.'" United States v. Wilkerson, 208 F.3d 794, 797 (9th Cir. 2000)
20 (quoting United States v. Hernandez, 109 F.3d 1450, 1453 (9th Cir. 1997)). "Frivolous and
21 improperly based suggestions that a judge recuse should be firmly declined." Maier v. Orr, 758
22 F.2d 1578, 1583 (9th Cir. 1985) (citations omitted).

23 Here, Plaintiff is asking that the undersigned recuse himself because Plaintiff does not like
24 the undersigned's ruling, and believes that the ruling shows that the undersigned is biased. As
25 described above, this is almost never grounds for recusal, and the undersigned sees no reason to
26 deviate from the general rule here. The undersigned has reviewed the record, and there is no
27 evidence of any impropriety.

28 Accordingly, Plaintiff's motion for recusal will be denied.

1 **II. PLAINTIFF’S MOTION(S) FOR RECONSIDERATION**

2 Federal Rule of Civil Procedure 60(b) governs grounds for relief from an order:

3 On motion and just terms, the court may relieve a party or its legal
4 representative from a final judgment, order, or proceeding for the
5 following reasons: (1) mistake, inadvertence, surprise, or excusable
6 neglect; (2) newly discovered evidence that, with reasonable
7 diligence, could not have been discovered in time to move for a
8 new trial under Rule 59(b); (3) fraud (whether previously called
9 intrinsic or extrinsic), misrepresentation, or misconduct by an
 opposing party; (4) the judgment is void; (5) the judgment has been
 satisfied, released, or discharged; it is based on an earlier judgment
 that has been reversed or vacated; or applying it prospectively is no
 longer equitable; or (6) any other reason that justifies relief.

10 Fed. R. Civ. P. 60(b). Notably, “[a] motion under Rule 60(b) must be made within a reasonable
11 time--and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order
12 or the date of the proceeding.” Fed. R. Civ. P. 60(c)(1).

13 As to Rule 60(b)(6), Plaintiff “must demonstrate both injury and circumstances beyond his
14 control that prevented him from proceeding with the action in a proper fashion.” Harvest v.
15 Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and citation omitted).
16 Additionally, Rule 60(b)(6) “is to be used sparingly as an equitable remedy to prevent manifest
17 injustice and is to be utilized only where extraordinary circumstances prevented a party from
18 taking timely action to prevent or correct an erroneous judgment.” (Id.) (internal quotations
19 marks and citation omitted).

20 Plaintiff’s motion(s) for reconsideration will be denied. Plaintiff has failed to show that
21 he meets any of the above-mentioned reasons for granting relief from the order denying his
22 motion for reconsideration by the assigned district judge. Plaintiff alleges no new facts or
23 evidence, and the Court’s prior ruling is legally correct.

24 **III. ORDER**

25 Accordingly, based on the foregoing, IT IS ORDERED THAT:

- 26 1. Plaintiff’s motion for recusal of Chief Judge O’Neill is DENIED; and

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2. Plaintiff's motion(s) for reconsideration of the Court's order denying Plaintiff's motion for reconsideration by the assigned district judge is DENIED.

IT IS SO ORDERED.

Dated: September 28, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE