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

MARVIN HARRIS,

No. CIV S-08-1615-GEB-CMK-P

Plaintiff,

vs.

ORDER

JAMES WALKER, et al.,

Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s second motion for disqualification of the undersigned (Doc. 53).

Under 28 U.S.C. § 144, a federal judge is required to disqualify himself from presiding in an action where a litigant shows by affidavit “personal bias or prejudice either against him or in favor of any adverse party. . . .” The affidavit must state the facts and reasons for the litigant’s belief that bias or prejudice exists. See id. Under 28 U.S.C. § 455(b)(1), a federal judge must disqualify himself “[w]here he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.”

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1 In his renewed motion, plaintiff states that the undersigned must be disqualified
2 because of bias and prejudice. Plaintiff cites recent court orders in support of this contention.
3 At the outset, the court observes that it may rule on plaintiff's motion to disqualify and need not
4 assign the matter to another judge for consideration. See United States v. Azhocar, 581 F.2d
5 735, 738 (9th Cir.1978) (citing Berger v. United States, 255 U.S. 22, 32-34 (1922)). Turning to
6 the merits of plaintiff's motion, the court concludes that none of the documents attached to
7 plaintiff's motion demonstrates bias or prejudice against plaintiff or in favor of defendants.
8 Specifically, adverse rulings do not constitute the requisite bias or prejudice. See id. at 739.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's second motion to
10 disqualify the undersigned (Doc. 53) is denied.

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12 DATED: August 27, 2009

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14 **CRAIG M. KELLISON**
15 UNITED STATES MAGISTRATE JUDGE
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