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

JAMES L. DAVIS,

Plaintiff,

No. CIV S-10-2972 MCE CKD P

vs.

SCHROEDER, et al.,

Defendants.

ORDER

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On May 14, 2012 petitioner filed a motion for the disqualification of Magistrate Judge Delaney. (Dkt. No. 18.)

Motions for disqualification are governed by 28 U.S.C. § 144 and 28 U.S.C. § 455. See Pesnell v. Arsenault, 543 F.3d 1038, 1043 (9th Cir. 2008). Under 28 U.S.C. § 144, if a party demonstrates that “the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.” 28 U.S.C. § 144. Similarly, 28 U.S.C. § 455 provides that 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 a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.” 28 U.S.C. § 455(a), (b)(1).

