1		
2		
3		
4		
5		
6		
7	UNITED STATES DISTRICT COURT	
8	FOR THE EASTERN DISTRICT OF CALIFORNIA	
9		
10	UNITED STATES OF AMERICA,	No. 2:12-cv-1990 MCE GGH PS
11	Plaintiff,	
12	V.	ORDER
13	ROBERT S. LAUGHLIN et al.,	
14	Defendants.	
15		
16	Defendants are proceeding in this action pro se. This proceeding was referred to this court	
17	by Local Rule 302(21), pursuant to 28 U.S.C. § 636(b)(1). Defendants have filed a motion to	
18	recuse the undersigned from this case pursuant to 28 U.S.C. § 455.	
19	Although a judge is required to disqualify himself if his impartiality might reasonably be	
20	questioned, 28 U.S.C. § 455(a), or if he has a personal bias or prejudice against a party, 28 U.S.C.	
21	§ 455(b)(1), the undersigned finds no reason to recuse himself here. Remarks made during the	
22	course of a judicial proceeding that are critical	l or hostile to a party or his case ordinarily will not
23	support a bias or partiality claim unless they re	eveal an extrajudicial source for the opinion, or
24	"such a high degree of favoritism or antagonism as to make fair judgment impossible." <u>Liteky v.</u>	
25	United States, 510 U.S. 540, 554, 114 S. Ct. 1147, 1157, 127 L.Ed.2d 474, 484 (1994.) The	
26	decision regarding disqualification is made by the judge whose impartiality is at issue. <u>Bernard v.</u>	
27	<u>Coyne</u> , 31 F.3d 842, 843 (9th Cir. 1994).	
28	////	
		1

1	Where the source of alleged bias or prejudice is a judicial proceeding, the party moving	
2	for disqualification must show a disposition on the part of the judge that "is so extreme as to	
3	display clear inability to render fair judgment." Liteky, 510 U.S. at 541, 114 S. Ct. at 1155.	
4	"Opinions formed by the judge on the basis of facts introduced or events occurring in the course	
5	of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality	
6	motion unless they display a deep-seated favoritism or antagonism that would make fair judgment	
7	impossible." Id. at 555, 114 S. Ct. at 1157. Bias is not found where the judge has expressed	
8	anger or dissatisfaction or annoyance that are within the bounds of reasonable behavior. Id.	
9	Defendants contend that the undersigned is biased against him based on the order and	
10	findings and recommendations issued by the undersigned on October 4, 2013, adverse to	
11	defendants, which defendants claim reflect his impartiality and conflict of interest. They also	
12	claim that this opinion reflects that the undersigned is offering legal advice to counter-defendants.	
13	This undersigned's actions in this case do not support disqualification. The actions taken	
14	were an appropriate response to filings. The court's rulings do not reflect an extreme disposition	
15	or deep-seated antagonism. They do not reflect animosity, partiality, or inability to render a fair	
16	judgment in the instant action. They do not indicate bias, personal or otherwise, or prejudice,	
17	personal or otherwise. Defendants' request that the undersigned recuse himself is denied.	
18	Accordingly, IT IS ORDERED that: Defendants' motion to recuse the undersigned, filed	
19	October 22, 2013, is denied.	
20	Dated: October 31, 2013	
21	/s/ Gregory G. Hollows	
22	UNITED STATES MAGISTRATE JUDGE	
23	GGH:076	
24		
25		
26		
27		
28		
	2	