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facts concerning the proceeding." 28 U.S.C. § 455(a), (b)(1).

The substantive standard under these statutes "is whether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." Pesnell, 543 F.3d at 1043. Generally, "a judge's partiality must be shown to be based on information from extrajudicial sources, although sometimes, albeit rarely, predispositions developed during the course of a trial will suffice." F.J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc., 244 F.3d 1128, 1144–45 (9th Cir. 2001) (internal quotations and citations omitted); Pesnell, 543 F.3d at 1043. Thus, judicial rulings alone – apart from surrounding comments or accompanying opinions – almost never constitute valid grounds for disqualification. See Liteky v. United States, 510 U.S. 540, 556 (1994).

Here, plaintiff's claims fail to meet the threshold for disqualification. In an earlier-filed action, undersigned found plaintiff to be a "three strikes" litigant and subsequently recommended that the action be dismissed due to plaintiff's failure to pay the filing fee. Morris v. Jennings, No. 2:12-cv-2240 GEB CKD P (E.D. Cal.), Dkt. No. 14. This recommendation was adopted by the district court. Id., Dkt. No. 16. After the action was closed, the undersigned refused to accept late-filed objections to the findings and recommendations, citing a lack of good cause. Id., Dkt. No. 18. Neither this nor any other judicial ruling in this or the earlier-filed action provides a reasonable basis for questioning the impartiality of this court.

Accordingly, IT IS HEREBY ORDERED that:

- 1. Plaintiff's motion for recusal (Dkt. No. 4) is denied; and
- 2. Plaintiff's motion to proceed in forma pauperis (Dkt. No. 5) is denied for the reasons set forth in the court's April 3, 2013 order.

Dated: April 10, 2013

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CAROLYN K. DELANEY

UNITED STATES MAGISTRATE JUDGE