

1 court that were extraordinary, or suggested a biased position against petitioner.

2 A judge is required to disqualify himself if his impartiality might reasonably be
3 questioned, 28 U.S.C. § 455(a), or if he has a personal bias or prejudice against a party, 28
4 U.S.C. § 455(b)(1). Remarks made during the course of a judicial proceeding that are critical or
5 hostile to a party or his case ordinarily will not support a bias or partiality claim unless they
6 reveal an extrajudicial source for the opinion, or “such a high degree of favoritism or antagonism
7 as to make fair judgment impossible.” Liteky v. United States, 510 U.S. 540, 554 (1994.)
8 The decision regarding disqualification is made by the judge whose impartiality is at issue.
9 Bernard v. Coyne, 31 F.3d 842, 843 (9th Cir. 1994).

10 Where the source of alleged bias or prejudice is a judicial proceeding, plaintiff
11 must show a disposition on the part of the judge that “is so extreme as to display clear inability to
12 render fair judgment.” Liteky, 510 U.S. at 541. “Opinions formed by the
13 judge on the basis of facts introduced or events occurring in the course of the current
14 proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion
15 unless they display a deep-seated favoritism or antagonism that would make fair judgment
16 impossible.” Id. at 555. Bias is not found where the judge has expressed anger or dissatisfaction
17 or annoyance that are within the bounds of reasonable behavior. Id.

18 This court has found no indication in any of its prior rulings that support petitioner’s
19 motion to disqualification. The actions taken were an appropriate response to filings. The
20 Court’s rulings do not reflect an extreme disposition or deep-seated antagonism. They do not
21 reflect animosity, partiality, or inability to render a fair judgment in the instant action. They do
22 not indicate bias, personal or otherwise, or prejudice, personal or otherwise. Finally, they were
23 all adopted by the District Court after thorough review. The petitioner’s failure to state specific
24 actions that he relies upon to reflect bias make further analysis impossible.

25
26 Petitioner appealed the dismissal but the Ninth Circuit Court of Appeal dismissed the appeal for
27 failure to file an opening brief. ECF No. 38. 09-cv-1650 was a habeas corpus petition as to
28 which the undersigned took only one action after the matter had been dismissed by Magistrate
Kimberly Mueller on June 10, 2010, ECF No. 22, insofar as he entered a finding that no
Certificate of Appealability would be issued on August 21, 2012. ECF No. 31.

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Accordingly, IT IS HEREBY ORDERED that petitioner's April 21, 2017 motion for
recusal is DENIED.

Dated: May 8, 2017

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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