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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TAYLOR A. BEESON,  
  
Plaintiff,  
  
v.  
  
WARDEN, F.C.I. HERLONG, et. al.,  
  
Defendants.

No. 2:23-cv-1621 DJC CKD P

ORDER

On November 20, 2024, plaintiff filed a document which the court construes, in part, as a request that the undersigned recuse.

I. Legal Standard:

Federal law allows a judge to recuse from a matter based on a question of partiality:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. [¶] He shall also disqualify himself . . . [¶] [w]here 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).

A party may seek recusal of a judge based on bias or prejudice:

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him

1 or in favor of any adverse party, such judge shall proceed no further  
2 therein, but another judge shall be assigned to hear such proceeding.  
3 ¶ The affidavit shall state the facts and the reasons for the belief  
4 that bias or prejudice exists . . . .

5 28 U.S.C. § 144.

6 Relief under Section 144 is conditioned upon the filing of a timely and legally sufficient  
7 affidavit. A judge who finds the affidavit legally sufficient must proceed no further under Section  
8 144 and must assign a different judge to hear the matter. See 28 U.S.C. § 144; United States v.  
9 Sibla, 624 F.2d 864, 867 (9th Cir. 1980). Nevertheless, where the affidavit lacks sufficiency, the  
10 judge at whom the motion is directed can determine the matter and deny recusal. See United  
11 States v. Scholl, 166 F.3d 964, 977 (9th Cir. 1999) (citing Toth v. Trans World Airlines, Inc., 862  
12 F.2d 1381, 1388 (9th Cir. 1988) (holding that only after determining the legal sufficiency of a  
13 Section 144 affidavit is a judge obligated to reassign decision on merits to another judge)); United  
14 States v. \$292,888.04 in U.S. Currency, 54 F.3d 564, 566 (9th Cir. 1995) (if the affidavit is  
15 legally insufficient, then recusal can be denied).

16 The standard for legal sufficiency under Sections 144 and 455 is ““whether a reasonable  
17 person with knowledge of all the facts would conclude that the judge’s impartiality might  
18 reasonably be questioned.”” Mayes v. Leipziger, 729 F.2d 605, 607 (9th Cir. 1984) (quoting  
19 United States v. Nelson, 718 F.2d 315, 321 (9th Cir. 1983)); United States v. Studley, 783 F.2d  
20 934, 939 (9th Cir. 1986). To provide adequate grounds for recusal, the prejudice must result from  
21 an extrajudicial source. Sibla, 624 F.2d at 868-89. A judge’s previous adverse ruling alone is not  
22 sufficient for recusal. Nelson, 718 F.2d at 321.

## 23 II. Analysis

24 To the extent plaintiff alleges bias, prejudice, and impartiality based on previous rulings  
25 against plaintiff, the motion for recusal is substantially insufficient. The motion fails to allege  
26 facts to support a contention that the undersigned has exhibited bias or prejudice directed towards  
27 plaintiff from an extrajudicial source. Sibla, 624 F.2d at 868; see Liteky v. United States, 510  
28 U.S. 540, 555 (1994) (“[J]udicial rulings alone almost never constitute a valid basis for a bias or  
partiality motion.”); id. (“In and of themselves . . . [judicial rulings] cannot possibly show

1 reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the  
2 degree of favoritism or antagonism required . . . when no extrajudicial source is involved. Almost  
3 invariably, they are proper grounds for appeal, not for recusal.”); Leslie v. Grupo ICA, 198 F.3d  
4 1152, 1160 (9th Cir. 1999) (“[Plaintiff’s] allegations stem entirely from the district judge’s  
5 adverse rulings. That is not an adequate basis for recusal.”).

6 III. Conclusion

7 Because plaintiff fails to identify any adequate basis for recusal, and because there is no  
8 basis to reasonably question the undersigned’s impartiality, IT IS HEREBY ORDERED that  
9 plaintiff’s request for recusal (ECF No. 28) is denied.

10 Dated: November 22, 2024



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12 CAROLYN K. DELANEY  
13 UNITED STATES MAGISTRATE JUDGE

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