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

ROXANNE ARI,

No. C 07-3291 WHA (PR)

Petitioner,

ORDER OF DISMISSAL

vs.

DEBORAH L. PATRICK, Warden,

Respondent.

This is a habeas case filed pro se by a state prisoner. Petitioner has moved to disqualify the undersigned. As grounds for disqualification she quarrels with this Court's rulings in her previous cases. This is not sufficient to allege a personal bias, as required by 28 U.S.C. § 144. *See United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 566 (9th Cir. 1995) (judge's rulings in litigant's other cases not grounds for disqualification). The declaration therefore is not legally sufficient under Section 144, and the motion, construed as being made pursuant to Section 144, will be denied without reference to another judge. *See United States v. Scholl*, 166 F.3d 964, 977 (9th Cir. 1999) (judge not required to refer motion to recuse to another judge if motion is not timely or legally sufficient).

In addition, the Court has considered the contentions in the motion under 28 U.S.C. § 445. A reasonable person considering the rulings in petitioner's previous cases would not conclude that they were the product of bias. *See Liteky v. United States*, 510 U.S. 540, 555-56 (1994) (judicial rulings alone may constitute grounds for appeal, but almost never constitute


1 a valid basis for a bias or impartiality motion). For these reasons, the motion is also without
2 merit when construed as being brought pursuant to Section 445. The motion to disqualify
3 (document number 4 on the docket) is **DENIED**.

4 Petitioner had a previous habeas case before this court, C 01-1139 WHA (PR). It was
5 transferred to the Eastern District of California on June 14, 2001, and given case number CIV-
6 F-01-5848 OWW DLB by that court. It was then dismissed by that court for failure to allege
7 grounds that would entitle petitioner to habeas relief. This petition, therefore, is second or
8 successive. Second or successive petitions may not be filed unless the petitioner first obtains
9 from the United States Court of Appeals for the Ninth Circuit an order authorizing the district
10 court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such
11 an order. The petition accordingly is **DISMISSED** without prejudice to refile if she obtains the
12 necessary order.

13 Petitioner's motion to proceed in forma pauperis (document number 2) is **DENIED**. No
14 fee is due. Her motion for appointment of counsel (document number 3) is **DENIED** as moot.
15 Petitioner may disregard the clerk's notice regarding the insufficiency of her application to
16 proceed in forma pauperis. The clerk shall close the file.

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18 **IT IS SO ORDERED.**

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20 Dated: June 28, 2007.

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22 _____
23 WILLIAM ALSUP
24 UNITED STATES DISTRICT JUDGE
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