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E-FILED - 12/15/08

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

DENIS K. ROTROFF,)	No. C 08-2971 RMW (PR)
)	
Petitioner,)	ORDER DENYING MOTION FOR
)	RECUSAL
vs.)	
)	(Docket No. 3)
STEPHEN MAYBERG,)	
)	
Respondent.)	
_____)	

Petitioner, a civil detainee at Coalinga State Hospital under California’s “Sexually Violent Predators Act” (California Welfare & Institutions Code § 6600 et. seq.) (“SVPA”), filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s motion for recusal. For the reasons set forth below, petitioner’s motion for recusal is DENIED.

Petitioner filed a motion recusal of the court pursuant to 28 U.S. C. § 455. He argues the court has a personal bias towards either sex offenses cases or petitioner himself. Petitioner alleges this bias is based upon the court’s previous decision in petitioner’s previous federal habeas action, which was denied in 1997.

Recusal is appropriate where a “reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” Yagman v. Republic Ins., 987 F.2d 622, 626 (9th Cir. 1993) (citation omitted). Here, the court finds petitioner’s

1 motion does not meet the requirements for recusal. Petitioner's argument stems from a previous
2 ruling denying his case. After the denial, petitioner appealed the court's decision, which was
3 subsequently affirmed by the Ninth Circuit. The court's adverse ruling is not an adequate basis
4 for recusal. See Leslie v. Grupo ICA, 198 F.3d 1152, 1160 (9th Cir. 1999); see also United
5 States v. Holland, 501 F.3d 1120, 1123 (9th Cir. 2007) (“[I]n the absence of a legitimate reason
6 to recuse himself, a judge has a duty to sit in judgment in all cases coming before him.”).
7 Therefore, petitioner's motion to disqualify the court pursuant to 28 U.S.C. § 455 is DENIED.

8 This order terminates docket no. 3.

9 IT IS SO ORDERED.

10 DATED: _ 12/11/08 _


RONALD M. WHYTE
United States District Judge