

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

11 KEENAN G. WILKINS,) No. C 10-2818 LHK (PR)
12 Plaintiff,)
13 v.) ORDER GRANTING MOTION TO LIFT
14 GARY PICETTI, Judge, Superior Court) STAY; REOPENING ACTION;
Alameda County, et al.,) DENYING MOTION FOR
15) RECONSIDERATION OF ORDER
16 Defendants.) DENYING APPOINTMENT OF
) COUNSEL; DENYING MOTION FOR
) DISQUALIFICATION
) (Docket Nos. 27 & 30)

18 Plaintiff, proceeding *pro se*, filed an amended complaint pursuant to 42 U.S.C. § 1983
19 alleging that his constitutional rights to due process and equal protection were violated when, as
20 a result of competency proceedings in Alameda County, he was involuntarily committed to a
21 mental hospital. (Docket No. 12.) On April 25, 2011, the Court stayed the action pending
22 resolution of the pending criminal charges against Plaintiff in Alameda County. Plaintiff was
23 instructed to request that the stay be lifted within thirty days of disposition of the criminal
24 charges against him. (Docket No. 14.) On January 14, 2013, Plaintiff filed a motion stating that
25 he was convicted and sentenced on December 26, 2012, and requested an extension of ninety
26 days to complete his transfer to state prison. (Docket No. 20.) Plaintiff stated that he would
27 notify the Court when his transfer was complete. Plaintiff also filed a motion for appointment of
28 counsel. (Docket No. 24.) The Court denied Plaintiff's motions and instructed Plaintiff to file a

1 request to lift the stay upon the complete resolution of his criminal case, which would include
2 the conclusion of any appeal taken after conviction. (*Id.*)

3 Plaintiff has now filed a motion requesting that the Court reconsider the order denying
4 counsel. (Docket No. 27.) Plaintiff also filed a motion for disqualification of this Court.
5 (Docket No. 30.) Plaintiff's request for appointment of counsel is **DENIED** for want of
6 exceptional circumstances. *See Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997); *see also*
7 *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 25 (1981) (there is no constitutional right to
8 counsel in a civil case). None of Plaintiff's newly presented facts warrant appointment of
9 counsel. Plaintiff's motion for disqualification of the undersigned judge is also **DENIED**.
10 Plaintiff's dissatisfaction appears to be directed at the adverse rulings against Plaintiff.
11 However, it is well-established that actions taken by a judge during the normal course of the
12 proceedings are not proper grounds for disqualification. *See United States v. Scholl*, 166 F.3d
13 964, 977 (9th Cir. 1999) (judge properly denied motion for disqualification based on his prior
14 service as prosecutor and his actions during the proceedings because neither ground required
15 recusal); *see also Leslie v. Grupo ICA*, 198 F.3d 1152, 1160 (9th Cir. 1999) (court's adverse
16 rulings are not an adequate basis for recusal). Plaintiff has not satisfied his substantial burden of
17 demonstrating that a "reasonable person with knowledge of all the facts would conclude that the
18 judge's impartiality might reasonably be questioned." *United States v. McTiernan*, 695 F.3d
19 882, 891 (9th Cir. 2012).

20 Plaintiff additionally requests that this Court reconsider "the indefinite unnecessary stay
21 imposed." (Docket No. 27.) Plaintiff asserts that, "Once convicted [he] sought to lift the stay as
22 ordered" and that the Court's response was to impose, "an unnecessary, indefinite stay." (*Id.*)
23 Neither is true. However, in the interest of justice, the Court will construe Plaintiff's request for
24 reconsideration as a motion to lift the stay imposed by this Court on April 25, 2011. So
25 construed, Plaintiff's motion is **GRANTED**. The stay is lifted and the Clerk of the Court is
26 directed to **REOPEN** this case. The Court will conduct an initial review of Plaintiff's amended
27 complaint in a separate order.

28 This order terminates docket numbers 27 and 30.

1 IT IS SO ORDERED.
2 DATED: 8/6/13

Lucy H. Koh

LUCY H. KOH
United States District Judge