

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 08-cv-00961-REB-MJW

JOHN J. McCARTHY,

Applicant,

v.

WARDEN USP FLORENCE,

Respondent.

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**ORDER OVERRULING OBJECTION TO ORDER OF REFERENCE**

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**Blackburn, J.**

The matter before me is applicant **McCarthy's Objection to the Order of Reference to United States Magistrate Judge** [#37] filed June 25, 2009. I overrule the objection.

Applicant's claim that "[n]o law allows appointment of a Magistrate Judge over McCarthy's objection" is clearly erroneous. This case was referred to the magistrate judge pursuant to 28 U.S.C. § 636, which plainly supports the type of reference that was entered. **See *United States v. Allen***, 1992 "WL 174554 at \*1 (10<sup>th</sup> Cir. July 27, 1992). Nor has applicant offered anything to substantiate his bald, conclusory assertion that "the magistrate judges in this District have demonstrated Bias" in other cases filed by him.<sup>1</sup> **See *United States v. Hines***, 696 F.2d 722, 729 (10<sup>th</sup> Cir. 1982) (noting that

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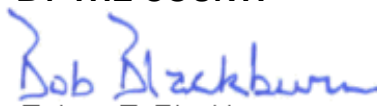
<sup>1</sup> Applicant generally alludes to "all cases filed by [him] in 2008 in Denver," and although I am neither required nor generally inclined to do so, my own perusal of the docket shows that petitioner filed two such cases in this District, Civil Action No. 08-cv-01944-ZLW and Civil Action No. 08-cv-01327-ZLW, both of which were dismissed without prejudice prior to being drawn to a district judge and magistrate judge. Applicant also cites ***McCarthy v. Bronson***, 500 U.S. 136, 111 S.Ct. 1737, 114 L.Ed.2d 194 (1991), a decision that arose out of the District of Connecticut and does not implicate or impugn any judge

recusal is not “mandated upon the merest unsubstantiated suggestion of personal bias or prejudice”); **Jackson v. Fort Stanton Hospital and Training School**, 757 F.Supp. 1231, 1240 (D.N.M. 1990) (“Disqualification for lack of impartiality must have a *reasonable* basis.”) (quoting H.R. Rep. No. 93-1453, 93<sup>rd</sup> Cong., 2<sup>nd</sup> Sess., 1974 U.S.C.C.A.N. 6351, 6355) (emphasis in original). **See also Liteky v. United States**, 510 U.S. 540, 554, 114 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994) (holding that unfavorable rulings against a party rarely provide basis for recusal); **see also United States v. Young**, 45 F.3d 1405, 1415 (10<sup>th</sup> Cir.) (same), **cert. denied**, 115 S.Ct. 2633 (1995).

**THEREFORE, IT IS ORDERED** that applicant **McCarthy’s Objection to the Order of Reference to United States Magistrate Judge [#37]** filed June 25, 2009, is **OVERRULED**.

Dated June 29, 2009, at Denver, Colorado.

**BY THE COURT:**

  
Robert E. Blackburn  
United States District Judge

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of this District.