

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 08-cv-02522-REB-KMT

CHRISTOPHER E. STONE, for himself and similarly situated employees,

Plaintiff,

v.

LOCKHEED MARTIN CORPORATION, a Maryland corporation,
ROBERT J. STEVENS, individually, and in his official capacity as President/CEO,
BRENT THODEN, individually, and in his official capacity as Manager,
J. MICHAEL CONLEY, individually, and in his official capacity as Manager,
MICHAEL KEYACK, individually, and in his official capacity as Manager,
ALICE ELDRIDGE, individually, and in his official capacity as Ethics VP,
TERRY JEFFERSON, individually, and in his official capacity as HR Manager,
FRANCINE LESSARD, individually, and in his official capacity as EEO Director,
GRANT CASSLEBERRY, individually, and in his official capacity as Sr. Manager,
WANDA HUNTER, individually, and in his official capacity as EEO Manager, and
MAX BEAL, individually, and in his official capacity as HR Manager,

Defendants.

ORDER

This matter is before the court on Plaintiff's "Notice & Motion for Recusal of Judge Blackburn and Magistrate Judge Tafoya" (Doc. No. 22) filed January 9, 2009. This court addresses only the portion of the motion requesting that I recuse myself. It appears Mr. Stone contends I should recuse myself because I am impartial toward the defendants.

Pursuant to 28 U.S.C. § 455(a), a Magistrate Judge shall disqualify herself “in any proceeding in which [her] impartiality might reasonably be questioned.” Plaintiff’s motion makes no allegations and states no facts regarding me in the motion. In addition,

judicial rulings alone almost never constitute valid basis for a bias or partiality motion. In and of themselves, (i.e., apart from surrounding comments or accompanying opinion), they cannot possibly show reliance on an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required . . . when no extrajudicial source is involved Second, opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.

Liteky v. United States, 510 U.S. 540, 555 (1994) (citation omitted). The test for recusal is an objective one. *United States v. Cooley*, 1 F.3d 985, 994 (10th Cir. 1993). Moreover, “[t]here is as much obligation for a judge not to recuse when there is no occasion for [her] to do so as there is for [her] to do so when there is.” *Hinman v. Rogers*, 831 F.2d, 937, 939 (10th Cir. 1987).

I find no reason why my impartiality might objectively or reasonably be questioned in this case. Therefore, as it relates to the recusal of Magistrate Judge Tafoya, Plaintiff’s motion is DENIED.

Dated this 9th day of January, 2009.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge