

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02572-BNB

MONTGOMERY CARL AKERS,

Plaintiff,

v.

ZITA L. WEINSHIENK,
BOYD N. BOLAND,
ROBERT M. BLACKBURN,
RON WILEY,
JACK FOX,
CHRISTOPHER SYNSVOLL,
DIANA J. CRIST,
MICHELLE BOND,
WENDY HEIM,
RICK MARTINEZ,
C/O ROY,
C/O HERMAN,
MARK COLLINS,
TENA SUDLOW, and
GEORGE KNOX,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

SEP 04 2009

GREGORY C. LANGHAM
CLERK

ORDER OF RECUSAL

This case has been reinstated pursuant to the mandate of the United States Court of Appeals for the Tenth Circuit filed on August 17, 2009, and reassigned to the pro se docket. Title 28 U.S.C. § 455(a) requires that a magistrate judge “shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” The provision is self-enforcing on the part of the judge. *See United States v. Gigax*, 605 F.2d 507, 511 (10th Cir. 1979). “In determining whether a judge should recuse under § 455(a), the issue is not whether the judge is impartial in fact, but rather,

whether a reasonable man might question his impartiality under all circumstances.” *Id.*; **see *Webbe v. McGhie Land Title Co.***, 549 F.2d 1358, 1361 (10th Cir. 1977). In its Order and Judgment entered June 24, 2009, the circuit court ruled that “[u]nder 28 U.S.C. § 455(b)(5), a judge must recuse when named as a party to a proceeding.” Order and Judgment [Doc. # 13, filed 6/24/2009] at pp.1-2. Accordingly, and in compliance with that ruling, it is

ORDERED that I hereby recuse myself from any further service in this matter. It is

FURTHER ORDERED that the clerk of the court shall cause this case to be reassigned to another magistrate judge.

DATED September 4, 2009, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 08-cv-02572-BNB

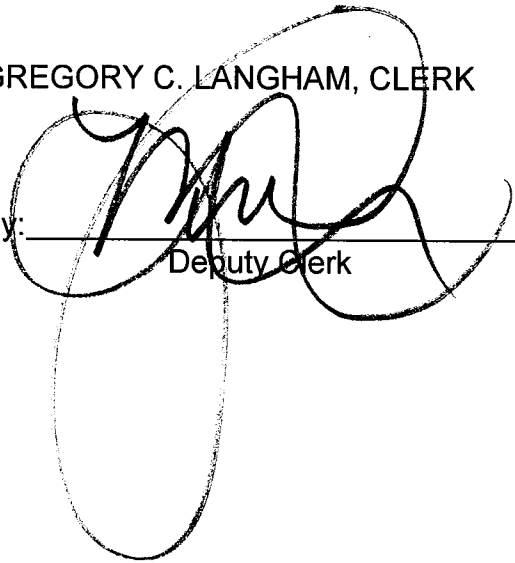
Montgomery Carl Akers
Reg. No. 02866-081
ADX - Florence
PO Box 8500
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 9/4/09

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk

A large, stylized handwritten signature in black ink, appearing to read 'G. Langham', is written over a horizontal line. The signature is highly cursive and loops around the line.