

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 09-cv-00983-WYD-KLM

WELLMAN E. GIBSON,

Plaintiff,

v.

ANNA MARIE CAMPBELL,
C. HOLST, AIC,
SHIRLEY STEINBECK,
MARSHALL GRIFFITH,
LT. STEINBECK, and
DOCTOR ASSEN,

Defendants.

ORDER

This matter is before the Court on Plaintiff's Objection to Order Reinstating and Assigning Case (doc. # 59 filed November 30, 2009). The Objection, which requests that both Magistrate Judge Mix and I be disqualified, is overruled and the relief requested therein is denied.

Specifically, I find that Plaintiff has not shown grounds that require disqualification under 28 U.S.C. § 455. While he complains that Magistrate Judge Mix and I ignored a motion for an emergency preliminary injunction or TRO filed by Plaintiff in a different case, Civil Action No. 09-cv-02328-WYD-KLM, that is not accurate. The motion was referred by me to Magistrate Judge Mix, she ordered briefing on the motion, and briefing has commenced. Further, delays or omissions attributable to a judge are not generally sufficient grounds for disqualification. *Kennedy v. Meacham*, 540 F.2d

1057, 1060 (10th Cir. 1976); see also *Estate of Bishop v. Equinox Intern. Corp.*, 256 F.3d 1050, 1058 (10th Cir. 2001).

In conclusion, it is

ORDERED that Plaintiff's Objection to Order Reinstating and Assigning Case is **OVERRULED** and the relief requested in the Objection is denied.

Dated: January 6, 2010

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge