IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02189-ZLW

JERRY L. MASKE,

APPLICANT,

v.

VALERIE ESTRADA, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER

Applicant Jerry L. Maske, acting ***pro se***, filed a Letter with the Court on October 5, 2009, (Doc. No. 23) raising the same objections and seeking the same relief that he sought in the previous twelve letters he filed with the Court. He also filed a Letter on October 5, 2009, (Doc. No. 22), in which he states that he will "get the affidavits requested." The Court must construe the Letters liberally because Mr. Maske is a ***pro se*** litigant. ***See Haines v. Kerner***, 404 U.S. 519, 520-21 (1972); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991).

To the extent the Letter dated October 3, 2009, (Doc. No. 23) is an affidavit by Mr. Maske asserting personal bias and prejudice in support of his motion for recusal, the affidavit lacks merit. "[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion." ***Liteky v. United States***, 510 U.S. 540, 555 (1994). Mr. Maske's claim that this Court is prejudiced based on gender because the sentence he attacks in this action "involve women" also lacks merit. Nothing in the claims Mr. Maske sets forth in the 28 U.S.C. § 2254 Application indicates that the state offense he

committed was against a woman. Even if the Court were aware that the victim in Mr. Maske's state offense was a woman, nothing Mr. Maske asserts constitutes a valid basis for a bias or partiality. Mr. Maske again fails to demonstrate that disqualification is appropriate pursuant to either 28 U.S.C. § 144 or 455(a). Therefore, the motion for a recusal will be denied.

As for Mr. Maske's renewed motions for a transfer of venue, for possible reconsideration of the Court's dismissal of the action, and for refund of filing fees he has paid in previous cases, the motions are denied for the same reasons stated in the October 1, 2009, Order. With respect to Mr. Maske's request for a "motion against" the Court for an alleged violation of 28 U.S.C. § 1654, the Judiciary Act, and the Code of Conduct for United States Judges, the request is construed as a complaint against the Court and is improperly filed in this action.

The Court further notes that the Clerk of the Court has processed Mr. Maske's motion for an appeal as an Amended Notice of Appeal. Accordingly, it is

ORDERED that the motion for recusal, contained in the October 5, 2009, Letter (Doc. No. 23) is denied. It is

FURTHER ORDERED that the motions for a refund, for reconsideration of the dismissal, and for change of venue, and the motion against the Court, all contained in the October 5, 2009, Letter, (Doc. No. 23) are denied.

DATED at Denver, Colorado, this 4th day of November, 2009.

BY THE COURT:

Zita Leeson Weinshienk

ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-02189-ZLW

Jerry Maske
2705 Danube Way, Unit 101
Aurora, CO 80013

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 11/6/09

GREGORY C. LANGHAM, CLERK

By: _____
Deputy Clerk