

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02296-BNB

BOB CUSTARD,

Plaintiff,

v.

DAVID ALLRED,  
YVETTE BROUILLET-FETTERHOFF,  
BUREAU OF PRISONS,  
CHAVEZ,  
MARK COLLINS,  
CORDOVA,  
ENCARARNANZE,  
FIEF,  
ANDREW FENLON,  
B. KASDON,  
KOCH-COULTER,  
RICHARD MADISON,  
PATRICIA RANGEL,  
KENT WELLS,  
C.A. WILSON,  
YU,  
PAUL ZOHN, and  
ZONNO,

Defendants.

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ORDER OVER-RULING OBJECTION

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Plaintiff, Bob Custard, a federal prisoner, has filed *pro se* an “Objection to a District Judge of the 10/31/13 Order of Mag. Boland – And – Pltf’s Renewed Motion for Boland’s Recusal or Removal from this Civil Action Due to Newly Demonstrated Prejudice and Bias” [Doc. # 17]. Mr. Custard objects to Magistrate Judge Boyd N. Boland’s October 31, 2013 Order Denying Motion for Recusal [Doc. # 16].

Pursuant to 28 U.S.C. § 636(b)(1)(A) a judge may reconsider any pretrial matter designated to a magistrate judge to hear and determine whether it has been shown that the magistrate judge's order is clearly erroneous or contrary to law. For the reasons stated below, the Objection is construed as filed pursuant to § 636 and will be overruled.

The Court finds that nothing Mr. Custard asserts in the October 30, 2013 Motion for Recusal of Magistrate Judge [Doc. # 15], or in the November 6, 2013 Objection [Doc. # 17] meets the objective standard for disqualification required pursuant to 28 U.S.C. § 455(a). Mr. Custard disagrees with Magistrate Judge's Boland's characterization of Plaintiff's allegations in a July 2007 document he filed with this Court as "threatening." However, the information provided by Mr. Custard about the content of the July 2007 filing is consistent with that description. [See Doc. # 15, at 5]. The Court further finds that the crux of Mr. Custard's dissatisfaction with Magistrate Judge Boland stems from the issuance of orders first granting, then denying, Plaintiff leave to proceed pursuant to 28 U.S.C. § 1915, upon realization that Plaintiff failed to meet the requirements of § 1915(g). "[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). Therefore, Mr. Custard's Objection is without merit and will be overruled. Accordingly, it is

ORDERED that Mr. Custard's "Objection to a District Judge of the 10/31/13 Order of Mag. Boland – And – Pltf's Renewed Motion for Boland's Recusal or Removal from this Civil Action Due to Newly Demonstrated Prejudice and Bias" [Doc. # 17], filed on November 6, 2013, is OVER-RULED. It is

FURTHER ORDERED that Mr. Custard's "Motion for Court Order" [Doc. # 18],

filed on November 8, 2013, is GRANTED as follows: The Clerk of the Court shall send a copy of Doc. # 11 (Order Directing Plaintiff to Show Cause) to FLM/Legal [Svs~@bop.gov](mailto:Svs~@bop.gov), and shall direct the BOP's attention to p. 4. of the Order (vacating Order Granting Plaintiff Leave to Proceed Pursuant to 28 U.S.C. § 11915). It is

FURTHER ORDERED that Mr. Custard shall comply with the October 16, 2013 Order to Show Cause [Doc. # 11] **within 21 days** from the date of this Order. No further extensions will be granted absent a showing of just cause.

DATED at Denver, Colorado, this 13<sup>th</sup> day of November, 2013.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Judge  
United States District Court