

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

NAJAM AZMAT,)	
)	
Movant,)	
)	
v.)	
)	CV417-086
)	CR413-028
UNITED STATES OF AMERICA)	
)	
Respondent.)	

ORDER

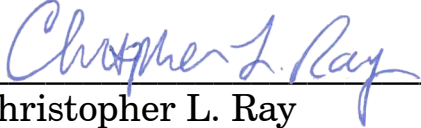
This case, involving Najam Azmat’s challenge to his federal sentence, was recently reassigned to the undersigned. *See* Docket entry dated Jan. 8, 2019. Because of a previous attorney-client relationship with the plaintiff in an unrelated matter, and to avoid any appearance of impropriety, I recuse.

Two federal statutes govern judicial disqualification due to conflict of interests. The first, 28 U.S.C. § 144, only applies when “a party . . . makes and files a timely and sufficient affidavit” Since no such affidavit has been filed, it does not apply here. The second, 28 U.S.C. § 455, “places a judge under a self-enforcing obligation to recuse himself where the proper legal grounds exist.” *United States v. Alabama*, 828 F.2d

1532, 1540 (11th Cir. 1987), *superseded by statute on other grounds as recognized by J.W. by and through Tammy Williams v. Birmingham Bd. of Ed.*, 904 F.3d 1248, 1254 (11th Cir. 2018). Courts have generally recognized that prior representation of a party is not an absolute bar on a judge's hearing a case. *See David v. City and Cty. of Denver*, 101 F.3d 1344, 1350-51 (10th Cir. 1996) (“[U]nder § 455(a), a judge's prior representation of a witness or a party in an unrelated matter does not automatically require disqualification.” (citing, *inter alia*, *United States v. Lovaglia*, 954 F.2d 811, 815 (2d Cir. 1992); *see also Sphere Drake Ins., Ltd. v. All Am. Life Ins. Co.*, 307 F.3d 617, 622 (7th Cir. 2002) (“Nothing in the Code of Conduct for federal judges makes prior representation of a litigant a disqualifying event,” depending on the time since representation terminated). Nevertheless, it is vital that litigants and the public see that the judicial process is fair and impartial. Accordingly, I will exercise my discretionary power to recuse in this case.

The Clerk is, therefore, **DIRECTED** to reassign this case to Magistrate Judge James E. Graham for all further proceedings.

SO ORDERED, this 14th day of January, 2019.



Christopher L. Ray
United States Magistrate Judge
Southern District of Georgia