

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

BRIAN EVANS,

Plaintiff,

vs.

DEVAL PATRICK, Governor, State of
Massachusetts, in his individual and
official capacity, ET AL.

Defendants.

CIVIL NO. 13-00268 SOM-BMK

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

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INTRODUCTION

Before the Court is Plaintiff pro se Brian Evans' ("Plaintiff") Motion for Reconsideration of Order Denying Plaintiff's Motion for Recusal, filed on September 16, 2013 ("Motion"). Pursuant to Local Rule 7.2(d), the Court finds this matter suitable for disposition without a hearing. After careful consideration of the Motion and the relevant legal authority, Plaintiff's Motion is hereby DENIED.

BACKGROUND

In his Motion for Recusal, Plaintiff sought the recusal of Chief United States District Judge Susan Oki Mollway in his seven cases before her, on the

grounds that he filed a Complaint of Judicial Misconduct against her, and because the orders entered in his cases evidence her bias against him. This Court denied the Motion for Recusal in an order dated September 12, 2013 (“9/12/13 Order”), concluding that recusal was not warranted under either 28 U.S.C. §§ 144 or 455. Plaintiff now seeks reconsideration of the 9/12/13 Order.

DISCUSSION

This district court recognizes three grounds for granting reconsideration of an order: “(1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice.” *White v. Sabatino*, 424 F. Supp. 2d 1271, 1274 (D. Haw. 2006) (citing *Mustafa v. Clark County Sch. Dist.*, 157 F.3d 1169, 1178-79 (9th Cir. 1998)).

Although Plaintiff does not specify the legal basis upon which he brings his Motion, his arguments indicate that he simply disagrees with the Court’s denial of his Motion for Recusal. Plaintiff, therefore, fails to raise any grounds warranting reconsideration of the 9/12/13 Order. In his Motion, Plaintiff again argues that Chief Judge Mollway reached the wrong decisions in his various cases, claiming that:

While Plaintiff has never met Judge Mollway, Plaintiff contends she is more interested in clearing her docket than she is in taking a serious look at the Plaintiff’s case. Plaintiff believes he did

adequately state a claim, and that the lawsuits she has dismissed were quite similar to those she permitted. It was only when it became clear that the Plaintiff intended to file numerous actions, as is his right, that Judge Mollway began holding Plaintiff to a much higher standard than his initial lawsuits which were permitted to go forward and which had the very same deficiencies that she later made an issue in Orders dismissing additional case filings. The appearance of bias is all that is required. . . . The Plaintiff never had an opportunity to even request relief under the Stripping Doctrine in his lawsuits, and it's clear the judge in this case, in near-identical Orders dismissing several Complaints, is utilizing a computer software program to issue her Orders and merely "filling in the blanks" as it pertains to dismissing the Complaints. One need only review her every near-identical Orders to confirm this.

Motion at 1-2.

Plaintiff's simple disagreement with orders issued by Chief Judge Mollway and this Court's denial of his Motion for Recusal is not a sufficient basis for reconsideration. This district court has recognized that "[m]ere disagreement with a previous order is an insufficient basis for reconsideration." *White*, 424 F. Supp. 2d at 1274 (citing *Leonq v. Hilton Hotels Corp.*, 689 F. Supp. 1572 (D. Haw. 1988)). Accordingly, Plaintiff's Motion is DENIED.

CONCLUSION

On the basis of the foregoing, the Court DENIES Plaintiff's Motion for Reconsideration.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAI'I, September 17, 2013.



/s/ Derrick K. Watson
Derrick K. Watson
United States District Judge

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