

**United States District Court  
Northern District of Indiana**

TRACY HERTEL,

Plaintiff,

v.

JEROME FRESE,

Defendant.

Civil Action No. 3:11-CV-58 JVB

**OPINION AND ORDER**

Plaintiff, a prisoner proceeding *pro se*, has filed numerous motions in this closed case. (DE 25, 26, 27, 28.) For the reasons explained in the final order, the Court dismissed his case under 28 U.S.C. § 1915A because his claims were barred by judicial immunity and *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). (DE 23.)

Plaintiff requests the Court recuse itself due to bias, which, in his view, is demonstrated by the Court’s adverse rulings. (DE 28, 29.) The adverse rulings do not establish an impermissible bias that would warrant recusal. *See* 28 U.S.C. § 455 (2006) (enumerating the circumstances for self-disqualification); *Liteky v. United States*, 510 U.S. 540, 555 (1994) (explaining, among other relevant points, that “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion”). Accordingly, the Court denies this motion (DE 28, 29) and Plaintiff’s request that counsel be appointed to assist him in preparing a “certificate of good faith” (DE 26).

In the remaining two motions, Plaintiff argues he should not have been subjected to the screening requirement contained in 28 U.S.C. § 1915A because, in his view, he is not a prisoner. (DE 25, 27.) As explained in the final order, Plaintiff is presently serving a term of probation in prison as ordered by a state criminal judge. (DE 23 at 2-3.) Despite Plaintiff’s argument that this

sentencing structure is illegal, he is presently incarcerated pursuant to a state conviction, and he is therefore a “prisoner” within the meaning of 28 U.S.C. § 1915A(c). The Court appropriately screened his case under that provision. To the extent Plaintiff is alleging some other error in connection with the screening order, the Court has reviewed the order and finds no error. Accordingly, these motions are denied.

For the reasons set forth above, the pending motions (DE 25, 26, 27, 28) are **DENIED**.

**SO ORDERED** on January 12, 2012.

s/ Joseph S. Van Bokkelen  
JOSEPH S. VAN BOKKELEN  
UNITED STATES DISTRICT JUDGE