

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

VICTOR TAGLE,

Plaintiff(s),

vs.

JON NOUHEIM, et al.,

Defendant(s).

Case No. 2:16-cv-00709-GMN-NJK

ORDER DENYING MOTION TO  
RECUSE

(Docket No. 38)

Pending before the Court is Plaintiff's motion to change magistrate judge. Docket No. 38. The Court construes the motion as seeking recusal pursuant to 28 U.S.C. § 144 and 28 U.S.C. § 455. *See Blaisdell v. Frappiea*, 729 F.3d 1237, 1241 (9th Cir. 2013) (courts construe *pro se* filings liberally). The substantive standard for recusal under both Sections is the same: "whether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *United States v. Hernandez*, 109 F.3d 1450, 1453 (9th Cir. 1997) (quoting *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986)). Ordinarily, any alleged bias must stem from an "extrajudicial source." *Liteky v. United States*, 510 U.S. 540, 554-56 (1994). "[O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Id.* at 555.

Without explanation or elaboration, Plaintiff asserts that the undersigned has exhibited bias based on Plaintiff's ethnic background and indigence. Docket No. 38 at 1. The undersigned has no personal

1 feelings of bias toward Plaintiff on any basis, let alone his ethnic background and/or indigence, and  
2 Plaintiff has not pointed to any basis on which a reasonable observer could question whether such  
3 impartiality exists.

4 Plaintiff also appears to argue that the undersigned is biased because two of the defendants are  
5 “magistrates.” *Id.* It appears from Plaintiff’s complaint that two of the defendants are state judicial  
6 officers. *See* Docket No. 1-1 at 5, 6. The undersigned does not know either person, has no feelings of  
7 partiality related to either, and Plaintiff has not pointed to any basis on which a reasonable observer  
8 could question the undersigned’s impartiality.

9 Lastly, Plaintiff argues that the attorney representing Defendants is a family member of someone  
10 affiliated with the Court. Docket No. 38 at 1. Plaintiff does not identify that attorney (or family  
11 member). No Defendant or attorney has appeared in this case, and the Court is not aware as to who will  
12 represent Defendants in this case should it proceed.

13 The real crux of Plaintiff’s motion appears to be that he is unhappy with the report and  
14 recommendation issued by the undersigned that this case should be dismissed. *See id.*<sup>1</sup> Unhappiness  
15 with a judge’s rulings is not ground for recusal. *See United States v. Studley*, 783 F.2d 934, 939 (9th  
16 Cir. 1986) (“a judge’s prior adverse ruling is not sufficient cause for recusal”). To the extent Plaintiff  
17 disagrees with that report and recommendation, his remedy is to object to it (as he has already done).  
18 Docket No. 10.

19 For these reasons, Plaintiff’s motion for the undersigned to recuse is **DENIED**.

20 IT IS SO ORDERED.

21 DATED: May 23, 2017

22   
23 \_\_\_\_\_  
24 NANCY J. KORPE  
25 United States Magistrate Judge

26 <sup>1</sup> The motion references the undersigned dismissing multiple of Plaintiff’s cases without reason. *Id.*  
27 The Court will take this opportunity to clarify the record. This is the only case brought by Plaintiff assigned  
28 to the undersigned. As a magistrate judge, the undersigned has not dismissed this case, but rather  
recommended that the assigned district judge dismiss the case. That report and recommendation provided  
explicit reasoning and discussion of applicable legal authority. *See* Docket No. 8 at 2-4.