

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM CATO SELLS, JR.,)	
)	3:06-cv-00023-LRH-VPC
Plaintiff,)	
)	<u>MINUTE ORDER</u>
vs.)	
)	March 6, 2009
ELDON K. McDANIEL, et al.,)	
)	
Defendants.)	
_____)	

PRESENT: THE HONORABLE LARRY R. HICKS, UNITED STATES DISTRICT JUDGE
 DEPUTY CLERK: ROSEMARIE MILLER REPORTER: NONE APPEARING
 COUNSEL FOR PLAINTIFF(S): NONE APPEARING
 COUNSEL FOR DEFENDANT(S): NONE APPEARING
 MINUTE ORDER IN CHAMBERS:

IT IS ORDERED that Plaintiff’s motion to recuse Judge Larry R. Hicks (#145) is DENIED.

Recusal is governed by 28 U.S.C. §§ 144 and 455. Under section 144, a party seeking recusal must set forth, in an affidavit, facts and reasons for the belief that bias or prejudice exists. See 28 U.S.C. § 144. The standard for recusal under sections 144 and 455 is “whether a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986). The alleged prejudice must result from an extrajudicial source; a judge’s prior adverse ruling is not sufficient cause for recusal. *Id.* The challenged judge should rule on the legal sufficiency of the recusal motion in the first instance. *Id.* at 940. The judge has a duty not to recuse when there is no sound reason to do so.

Plaintiff’s motion to recuse is based solely upon conclusory beliefs and unsupported allegations and is without merit. Plaintiff is also mistaken that Joshua Hicks is the son of Judge Hicks. Dissatisfaction with the granting of an extension of time to file objections to the Magistrate Judge’s Report and Recommendation (#141) is not sufficient cause for recusal.

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk