

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY LEWIS, ) 3:10-CV-0083-RCJ (VPC)
Plaintiff, )
vs. ) MINUTES OF THE COURT
J. ALLEN, et al., ) March 7, 2012
Defendants. )

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PETITIONER(S): NONE APPEARING

COUNSEL FOR RESPONDENT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

In this civil rights action, brought pro se by prisoner Anthony Lewis, the plaintiff has filed a "Motion to Recuse Based on Impartiality" [sic] (#125), requesting that the undersigned United States Magistrate Judge recuse from the case. Defendants opposed the motion (#128), and no reply was filed. Plaintiff points to prior rulings in this case as the basis for the request for recusal.

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.

Plaintiff's motion to recuse is without merit. Plaintiff has shown no reason for the judge's impartiality in this case to be questioned. Therefore, plaintiff's motion to recuse (#125) is DENIED.

