Koerner v. Cox et a	al I	Doc
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5	UNITED STATES DISTRICT COURT DISTRICT OF NEVADA	
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7	KELLY KOERNER,	) 3:11-CV-0116-LRH (VPC)
8	Plaintiff,	ORDER
9	VS.	
10	JAMES GREG COX, et al.,	
11	Defendants.	
12	Plaintiff has filed a motion to recuse (#79), seeking to have the undersigned removed from this action. Recusal is governed by 28 U.S.C. §§ 144 and 455. Plaintiff's affidavit must set forth facts and	
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14	reasons for the belief that bias or prejudice exists. 28 U.S.C. § 144. The standard for recusal under	
15	Sections 144 and 455 is "whether a reasonable person with knowledge of all the facts would conclude	
16	that the judge's impartiality might reasonably be questioned." <i>United States v. Studley</i> , 783 F.2d 934,	
17	939 (9th Cir. 1986). The alleged prejudice must result from an extrajudicial source; a judge's prior	
18	adverse ruling is not sufficient cause for recusal. <i>Id.</i> The challenged judge should rule on the legal	
19	sufficiency of a recusal motion in the first instance. <i>Id.</i> at 939.	
20	Plaintiff's allegations do not meet the sufficiency requirement of Section 144. See 28 U.S.C. §	
21	144 (Party must file timely affidavit setting forth facts and reasons for the belief that bias or prejudice	
22	exists). Plaintiff's allegations of prejudice do not result from an extrajudicial source. Plaintiff has	
23	shown no reason for this judge's impartiality to be questioned.	
24	IT IS THEREFORE ORDERED that	plaintiff's motion to recuse (#79) is <b>DENIED</b> .
25	DATED: March 26, 2013.	2 N. n M
26		Valerie P. (boke
27 28		UNITED STATES MAGISTRATE JUDGE
28		UNITED STATES MADISTRATE JUDGE

Doc. 80