

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Freddie Owens,

PETITIONER

v.

Bryan P. Stirling, Commissioner, South  
Carolina Department of Corrections; Joseph  
McFadden, Warden, Lieber Correctional  
Institution,

RESPONDENTS

Case No. 0:16-cv-02512-TLW-PJG

**Order**

This matter is before the Court on Petitioner's motion requesting that the undersigned recuse himself pursuant to 28 U.S.C. §§ 455(a) and (b)(1). ECF No. 158. For the reasons set forth below, that motion is denied.<sup>1</sup>

The Court set out the basic background facts in its order denying his prior motion for recusal:

Counsel has been appointed to represent Petitioner in this federal habeas matter arising out of his 1999 conviction and death sentence in Greenville County, South Carolina. As set forth in the motion, after Petitioner's February 15, 1999 convictions for death-eligible murder, armed robbery, and use of a weapon during the commission of a violent offense, he was returned to the Greenville County Detention Center pending the sentencing phase of the trial. That evening, he killed a cellmate, and he gave a written confession the following morning. See ECF No. 54 at 8–10. That confession, along with testimony from the pathologist who conducted the autopsy of the killed inmate, were introduced into evidence at the sentencing phase of the underlying trial. He was sentenced to death.

In 2001, two years after Petitioner was convicted and sentenced, the family of the inmate he killed brought a wrongful death and survival claim in the U.S. District Court against Greenville County and other entities and individuals, generally asserting that they were liable for failing to protect the decedent from Petitioner.

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<sup>1</sup> This is the second motion for recusal that Petitioner has filed. The first was also denied. ECF Nos. 54, 77.

Lee v. Greenville County, et al., No. 6:01-cv-00427-TLW (D.S.C.). Petitioner was not a party to the case. After being previously assigned to two other district judges, the case was ultimately assigned to the undersigned. The undersigned's involvement in the case was very limited. Specifically, the undersigned held a status conference and entered a consent scheduling order, four consent orders regarding depositions of inmates, and an order substituting counsel. *Id.*, ECF Nos. 36, 37, 38, 39, 40, 41, 45. Before the date set for jury selection, the magistrate judge held a settlement conference. *Id.*, ECF No. 48. The parties agreed to settle the case for \$600,000, and the magistrate judge entered an order approving the settlement and entered an order dismissing the case. *Id.*, ECF Nos. 49, 50, 51. The record does not reflect any involvement by the undersigned in the settlement or dismissal of the case. The undersigned has no independent recollection of the case or any contested evidentiary facts related to it.

ECF No. 77 at 1–2.

In Petitioner's current recusal motion, he asserts that the undersigned's need to rule on his objections to the magistrate judge's denial of his discovery requests related to the above incident somehow adds an additional basis for recusal.<sup>2</sup> See ECF No. 158 at 4–5. There is no merit to this argument. As explained in the prior recusal order, the undersigned's limited involvement in that fifteen-year-old case provides no basis for recusal under 28 U.S.C. § 455 and the relevant case law. Accordingly, based on the detailed reasons set forth in the prior order and Petitioner's failure to set forth any substantive new basis for recusal, his Second Motion for Recusal, ECF No. 158, is **DENIED**.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
Terry L. Wooten  
Chief United States District Judge

July 20, 2017  
Columbia, South Carolina

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<sup>2</sup> The Court will rule on those objections, ECF No. 157, in a separate order.