

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION

<p>DONOVAN SIERS,  Plaintiff,  vs.  RANDOLPH J. SEILER, KIRK W. ALBERTSON, TIM M. MAHER, RICHARD KUMLEY, GERALD DILLION, GILBERT MORRISON, KELSEY RUBY, UNKNOWN FEDERAL PROSECUTOR,  Defendants.</p>	<p>3:17-CV-03005-KES  ORDER DENYING MOTION FOR RECUSAL</p>
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Plaintiff, Donovan Siers, is an inmate at the Hughes County Jail in Pierre, South Dakota. Plaintiff filed a pro se lawsuit under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). Doc. 1. Siers now moves the court to recuse itself. The decision to recuse is committed to “the sound discretion of the district court . . . .” *Moran v. Clarke*, 296 F.3d 638, 648 (8th Cir. 2002) (citing *In re Kansas Pub. Employees Retirement Sys.*, 85 F.3d 1353, 1358 (8th Cir. 1996)). “A judge ‘shall disqualify [herself] in any proceeding in which [her] impartiality might reasonably be questioned.’” *Id.* (quoting 28 U.S.C. § 455(a)). The court has considered the motion. Plaintiff fails to set forth adequate grounds to require recusal. Therefore, Siers’ motion is denied.

The Prison Litigation Reform Act, 28 U.S.C. § 1915(g) states:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Siers is barred by § 1915(g) and has been warned twice. *Siers v.*

*Gilbertson et al*, 4:14-cv-04035-KES, Docket 15 at 5; *Siers v. Daugaard*, 4:14-cv-04034-KES, Docket 16 at 5.

Thus, it is ORDERED

1. Siers' motion for recusal (Docket 3) is denied.
2. Siers must either pay his full filing fee or file a motion to proceed in forma pauperis and explain how he is "under imminent danger of serious physical injury" by May 5, 2017. If he fails to do this, his complaint will be dismissed without further notice.

Dated April 6, 2017.

BY THE COURT:

*/s/ Karen E. Schreier*

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KAREN E. SCHREIER

UNITED STATES DISTRICT JUDGE