

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

REX GARD,

Plaintiff,

vs.

BOB DOOLEY, CHIEF WARDEN,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY; SUSAN JACOBS,
ASSOCIATE WARDEN, INDIVIDUALLY
AND IN HER OFFICIAL CAPACITY;
MURIEL NAMINGA, LAUNDRY
SUPERVISOR, INDIVIDUALLY AND IN
HER OFFICIAL CAPACITY; ANDRA
GATES, SUPERVISOR, DOH,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY; KELLY SWANSON,
SUPERVISOR, DOH, INDIVIDUALLY
AND IN HER OFFICIAL CAPACITY;
JENIFER BEMBOOM, CBM FOOD
SERVICE, INDIVIDUALLY AND IN HER
OFFICIAL CAPACITY; JOHN
TREWIELLAR, CBM FOOD SERVICE,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY; BARRY SCHROETER, CBM
FOOD SERVICE, INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY; JENIFER
STANWICK, DEPUTY WARDEN,
INDIVIDUAL AND OFFICIAL
CAPACITY; REBECCA SCHEIFFER,
ASSOCIATE WARDEN, INDIVIDUAL
AND OFFICIAL CAPACITY; LELAND
TJEERDSMA, MAJOR, INDIVIDUAL
AND OFFICIAL CAPACITY; TRAVIS
TJEERDSMA, UNIT STAFF,
INDIVIDUAL AND OFFICIAL
CAPACITY; TAMMY DEJONG, UNIT
STAFF, INDIVIDUAL AND OFFICIAL
CAPACITY; RANDY STEVENS,
PROPERTY OFFICER, INDIVIDUAL
AND OFFICIAL CAPACITY; CORPORAL
CROPPER, CORPORAL, INDIVIDUAL
AND OFFICIAL CAPACITY; RANDY
MILNE, CORRECTIONS OFFICER,
INDIVIDUAL AND OFFICIAL

4:14-CV-04023-LLP

ORDER DENYING
MOTION FOR RECUSAL

CAPACITY; JESSICA LUKE, OFFICE STAFF, DOH, INDIVIDUAL AND OFFICIAL CAPACITY; DOC STAFF, UNKNOWN AT THIS TIME, INDIVIDUAL AND OFFICIAL CAPACITY; AND CBM FOOD SERVICES EMPLOYEES, UNKNOWN AT THIS TIME, INDIVIDUAL AND OFFICIAL CAPACITY; Defendants.	
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This matter is before the court on plaintiff Rex Gard's *pro se* complaint. Mr. Gard now moves this court to recuse itself on the grounds that the court previously recused itself in Gard v. Weber, Civ. No. 10-5017.

Mr. Gard's prior lawsuit in Civ. No. 10-5017 was a petition for a writ of habeas corpus. In that petition, Mr. Gard was seeking a writ of habeas corpus in federal court on the grounds that his state court criminal conviction had violated his constitutional rights. This court recused itself in that matter because the court had knowledge of some facts regarding Mr. Gard's underlying state criminal case. The recusal was based on knowledge of the facts of the claim rather than anything personal to Mr. Gard himself.

Mr. Gard's other cases now pending in federal court do not involve the facts of his underlying conviction in state court. Rather, these pending matters involve allegations regarding the current circumstances of Mr. Gard's confinement in state prison. This court has no prior knowledge of those prison conditions. Hence the reason which existed for this court's prior recusal from Mr. Gard's habeas case does not exist in his present pending cases.

Accordingly, it is hereby

ORDERED that Mr. Gard's motion to recuse is denied.

DATED this 29th day of June, 2015.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Veronica L. Duffy".

VERONICA L. DUFFY
United States Magistrate Judge