

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

EDDIE MILTON GAREY, JR. §
VS. § CIVIL ACTION NO. 1:21cv547
LEONARD JONES, ET AL. §

MEMORANDUM OPINION AND ORDER

Plaintiff Eddie Milton Garey, Jr., an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brings this lawsuit against prison officials.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

Plaintiff has filed a motion for the magistrate judge to recuse himself and motion for extension of time pending challenges to the magistrate judge's orders (ECF No. 35). Liberally interpreted, plaintiff's motion is construed as a motion to disqualify the magistrate judge. The order considers such motion.

Title 28 U.S.C. § 455 provides that “[a]ny justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” 28 U.S.C. § 455(a). Disqualification is appropriate if “a well-informed, thoughtful and objective observer would question the court’s impartiality.” *Trust Co. of Louisiana v. N.N.P., Inc.*, 104 F.3d 1478, 1491 (5th Cir. 1997). The judge shall also disqualify himself “[w]here he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings.” 28 U.S.C. § 455(b)(1). Absent surrounding comments or accompanying opinion, judicial rulings alone will rarely constitute a valid basis for a motion to recuse or disqualify. *Liteky v. United States*, 510 U.S. 540, 555, 114 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994); *Andrade v. Chojnacki*, 338 F.3d 448, 455 (5th Cir. 2003).

The actions of which plaintiff complains are judicial in nature, rather than personal. Plaintiff has failed to set forth sufficient facts to cause a well-informed, thoughtful and objective observer to question the court's impartiality. Accordingly, plaintiff's motion to disqualify the magistrate judge should be denied. Additionally, plaintiff's challenges to the magistrate judge's orders have been reviewed and are being denied by separate order this date. As a result, plaintiff will be granted an extension of fifteen days in which to comply with the orders of the magistrate judge.

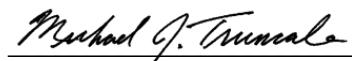
ORDER

For the reasons set forth above, plaintiff's motion to disqualify the magistrate judge is without merit and should be denied.

It is therefore ORDERED that plaintiff's motion to disqualify the magistrate judge is DENIED.

It is further ORDERED that plaintiff's motion for extension of time is GRANTED to the extent provided above. Plaintiff's compliance with the magistrate judge's orders shall be due on or before the expiration of fifteen (15) days from the date of this order.

SIGNED this 10th day of May, 2022.



Michael J. Truncale
United States District Judge