THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SIVA RAMA RAO KOTAPATI, Plaintiff, v. HAE YOUNG KIM, Defendant.	CASE NO. C17-0118-JCC ORDER DENYING DEFENDANT'S MOTIONS

This matter comes before the Court on Defendant Hae Young Kim's affidavit of prejudice and bias (Dkt. No. 16) and motion to stay (Dkt. No. 12). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby DENIES the motions for the reasons explained herein.

First, Defendant argues that after reviewing Judge Coughenour's biography, he believes Judge Coughenour is "biased and prejudiced against *pro se* litigants" and that Defendant "cannot receive a fair trial" because Judge Coughenour favors creditors. (Dkt. No. 16 at 2.) Defendant alleges that this cumulatively means Judge Coughenour would violate 28 U.S.C. § 144 if he presided over the case. (*Id.*) However, a violation of § 144 "requires that the bias or prejudice of the judge be twofold: (1) personal, i.e. directed against the party, and (2) extra-judicial." *United States v. Carignan*, 600 F.2d 762, 763 (9th Cir. 1979). Conclusory statements about how Defendant perceives Judge Coughenour are not sufficient. Therefore, the motion (Dkt. No. 16) is

DENIED.

Second, Defendant filed a motion for stay, arguing that he is entitled to a stay as an active servicemember. (Dkt. No. 12.) To obtain a stay, an active servicemember's application must have both of the following:

> (A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.
> (B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

50 U.S.C. § 3932(b)(2).[1] Defendant's motion and supporting documents do not meet these requirements and merely state that he is stationed in Arizona. (Dkt. No. 12 at 2.) Defendant's lack of physical proximity to this courthouse and the subject property of this case is not a reason to grant a stay. Therefore, the motion to stay (Dkt. No. 12) is DENIED.

DATED this 23rd day of February 2017.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

[1] Defendant cites Washington Revised Code § 38.42.060 as support for his motion to stay. However, the comparable federal statute, which governs this federal court, is 50 U.S.C. § 3932.