

1 because the prior Order to Show Cause “look [sic] very clear [sic] like a pre FINAL
2 DECISION CASE as quote from CHIEF UNITED STATES DISTRICT JUDGE RICARDO S.
3 MARTINEZ : ‘IN RESPONSE TO THIS order, will require dismissal.’” Dkt. #12 at 1
4 (misquoting Dkt #10 at 3). Plaintiff states that “the judgement of CHIEF UNITED STATES
5 DISTRICT JUDGE RICARDO S. MARTINEZ can be affected by 03 people of hispanics [sic]
6 origins involved in this case.... Also I request [the Court] take in consideration 03 slavic
7 speaking origin people involved in this case...” *Id.* at 2. Plaintiff also appears to argue the
8 merits of his underlying case repeatedly in this Motion.

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10 28 U.S.C. § 455 requires a judge to “disqualify himself in any proceeding in which his
11 impartiality might reasonably be questioned,” or where “he has a personal bias or prejudice
12 concerning a party.” “[A] judge’s prior adverse ruling is not sufficient cause for recusal.”
13 *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986); *see also Taylor v. Regents of Univ.*
14 *of Cal.*, 993 F.2d 710, 712 (9th Cir. 1993) (“To warrant recusal, judicial bias must stem from an
15 extrajudicial source.”). Plaintiff provides no legitimate reason why the Court’s impartiality
16 might reasonably be questioned in this case, nor has the Court identified any in its independent
17 review of the record. *See Studley*, 783 F.2d at 939. Accordingly, the undersigned judge
18 declines to voluntarily recuse himself. Pursuant to the Local Rules for the Western District of
19 Washington, the Court will direct the Clerk to refer this issue to the appropriate judge for
20 further review. *See LCR 3(e).*

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22 The Court next turns to the issues raised in its Order to Show Cause. Plaintiff brought
23 this action against the Secretary of Health and Human Services (“HHS”) using a standard form.
24 Dkt. #9 at 1. Under “Jurisdiction,” Plaintiff states only “because is about U.S.A. Secretary of
25 Health and Human Services (HHS).” *Id.* at 2. Plaintiff provides no facts in the Complaint,
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1 instead referring the Court to attached documents totaling over 1,700 pages. *Id.* at 2 – 3; *see*
2 *also* Dkts. #2 – #6. Plaintiff’s attached documents are, from the Court’s perspective, organized
3 in no logical fashion and constitute random letters and personal records of Plaintiff. From what
4 the Court can discern, Plaintiff requests, *inter alia*, that the Secretary of Health and Human
5 Services release Plaintiff’s passport so that Plaintiff can travel to Europe to eat food that does
6 not contain “a lot of chemicals... hormones, pesticide....” *See* Dkt. #2-1 (filed under seal).
7 Plaintiff argues that “[t]he USA health care is covering up poison food with chemicals; toxic
8 houses with fibber [sic] glass insulation, formaldehyde, mould [sic], toxic threaded wood;
9 environmental pollution.” *Id.* Plaintiff’s rambling attachments repeat themselves and reference
10 several nebulous government entities that are persecuting Plaintiff. *See, e.g., id.* At one point,
11 Plaintiff states that his passport expired in January 2016 and that his application for renewal
12 was denied, possibly because of an issue with “back child support in Texas court.” Dkt. #4-11
13 at 1. Plaintiff accuses the Texas Family Court and Texas Attorney General of abuse of power
14 and obstruction of justice. *Id.* Plaintiff includes other seemingly unrelated claims in his filings,
15 including accusations of prostitution and money laundering against his ex-wife. *See* Dkt. #5-1
16 (filed under seal). Under the section of his Complaint titled “Relief,” Plaintiff again cites to the
17 attachments but also requests “release of my passport,” “give me my constitution [sic] rights to
18 take care of my health in Europe.” Dkt. #9 at 4.
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20 All of the above issues were pointed out in the Court’s Order to Show Cause, and
21 Plaintiff was ordered to “write a short and plain statement telling the Court (1) the laws or
22 statutes upon which his claims are based, (2) how Defendant Secretary of Health and Human
23 Services violated those laws or statutes causing harm to Plaintiff, and (3) why this case should
24 not be dismissed as frivolous.” Dkt. #10 at 3.
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1 Plaintiff's Response, in addition to requesting a new judge, argues that the Court
2 misunderstands his claim, which is to 'RELEASE MY PASSPORT blocked by Secretary of
3 Health and Human Services based on NULE="0.00" [sic] certified that I own child support.'
4 Dkt. #12 at 2. Plaintiff states that the Court "is asking for: statue [sic], laws,
5 rules,.....numbers, names, dates,..... There are no laws, statutes [sic] or not even rules to be
6 apply [sic] on regulatory factors of chemical, hormones inside the food but POISON FOOD
7 AND POISON PEOPLE IS A CRIME." *Id.* at 4. Plaintiff argues that toxic houses, toxic air,
8 and prostitution in marriage are crimes, but fails to explain how Defendant Health and Human
9 Services violated specific laws or how Health and Human Services is to blame for Plaintiff's
10 inability to obtain his passport. Plaintiff argues that "restricting of citizen passport is JAIL
11 TIME NOT FREEDOM," and cites incoherently to "FREEDOM," "PERSUE [sic] OF
12 HAPPINESS," "DENIAL OF RIGHTS TO VOTE and RIGHT TO FAIR TRIAL." *Id.* at 5.

13 The Court will dismiss a Complaint at any time if the action fails to state a claim, raises
14 frivolous or malicious claims, or seeks monetary relief from a defendant who is immune from
15 such relief. *See* 28 U.S.C. § 1915(e)(2)(B).

16 Plaintiff has failed to coherently answer the Court's questions. Plaintiff's Complaint
17 lacks a coherent fact pattern connecting the actions of Defendant to an injury and lacks a claim
18 upon which relief can be granted under law. Instead, Plaintiff's Complaint and Response give
19 every indication that his lawsuit is frivolous. The Court therefore concludes that dismissal is
20 appropriate under 28 U.S.C. § 1915(e)(2)(B).

21 Accordingly, the Court hereby finds and ORDERS:

22 1) Plaintiff's Motion for Change of Judge (Dkt. #12) is DENIED. In conformity
23 with LCR 3(e), the Chief Judge refers any order in which he or she has declined
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1 to recuse to "the most active judge with the highest seniority;" in this district
2 that judge is the Honorable Ronald B. Leighton of Tacoma. Accordingly, this
3 order is referred to Judge Leighton for review.

4 2) This matter is DISMISSED.
5 3) The Clerk shall send a copy of this Order to Plaintiff at 2404 PINE ST,
6 EVERETT, WA 98201.
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9 DATED this 16th day of August 2017.

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12 RICARDO S. MARTINEZ
13 CHIEF UNITED STATES DISTRICT JUDGE
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