

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM MCKOBY,

Plaintiff,

v.

GLEN POST – CENTURYLINK, et al.,

Defendants.

CASE NO. C17-1517 RSM

ORDER

THIS MATTER is before the Court on review of Chief Judge Ricardo Martinez’s Order of Dismissal [Dkt. #11] in which Judge Martinez declined to recuse himself in response to *pro se* Plaintiff William McKoby’s “Affidavit of Prejudice/Motion to Recuse” [Dkt. #10]. The Order was referred to this Court as the most senior non-Chief Judge under 28 U.S.C. § 144 and LCR 3(e).

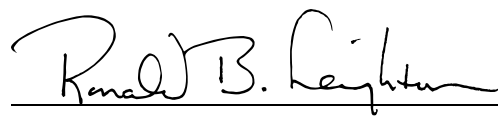
A federal judge should recuse himself if “a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” 28 U.S.C. § 144; *see also* 28 U.S.C. § 455; *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir. 1993). This objective inquiry is concerned with whether there is the appearance of bias, not whether there is bias in fact. *See Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *see*

1 also *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).). In the absence of specific
2 allegations of personal bias, prejudice, or interest, neither prior adverse rulings of a judge nor his
3 participation in a related or prior proceeding is sufficient” to establish bias. *Davis v. Fendler*,
4 650 F.2d 1154, 1163 (9th Cir. 1981). Judicial rulings alone “almost never” constitute a valid
5 basis for a bias or partiality motion. *Liteky v. United States*, 510 U.S. 540, 555 (1994).

6 After obtaining *IFP* status, McKoby filed a disjointed Complaint that was deficient in
7 many ways. Chief Judge Martinez issued a Show Cause Order [Dkt. #5] directing McKoby to
8 correct several deficiencies identified by the Court. McKoby filed two responses that failed to
9 address the deficiencies in his Complaint. McKoby was provided an additional opportunity to
10 respond to the Show Cause Order but instead filed an Affidavit of Prejudice/Motion to Recuse
11 Chief Judge Martinez. After a careful review of the filings in this case, the Court determines that
12 McKoby does not articulate any factual basis to reasonably question Chief Judge Martinez’s
13 impartiality. Accordingly, the Motion to Recuse [Dkt. #10] is **DENIED** and Chief Judge
14 Martinez’s Order of Dismissal in which he declines to recuse himself [Dkt. #11] is **AFFIRMED**.

15 IT IS SO ORDERED.

16 Dated this 24th day of January, 2018.

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19 Ronald B. Leighton
20 United States District Judge
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