

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 WILLIAM MCKOBY,

11 Plaintiff,

12 v.

13 GLEN POST – CENTURYLINK, et al.,

14 Defendants.

CASE NO. C17-1517 RSM

ORDER

15 THIS MATTER is before the Court on review of Chief Judge Ricardo Martinez's Order
16 of Dismissal [Dkt. #11] in which Judge Martinez declined to recuse himself in response to *pro se*
17 Plaintiff William McKoby's "Affidavit of Prejudice/Motion to Recuse" [Dkt. #10]. The Order
18 was referred to this Court as the most senior non-Chief Judge under 28 U.S.C. § 144 and LCR
19 3(e).

20 A federal judge should recuse himself if "a reasonable person with knowledge of all the
21 facts would conclude that the judge's impartiality might reasonably be questioned." 28 U.S.C.
22 § 144; *see also* 28 U.S.C. § 455; *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir.
23 1993). This objective inquiry is concerned with whether there is the appearance of bias, not
24 whether there is bias in fact. *See Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *see*

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

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

IT IS SO ORDERED.

Dated this 24th day of January, 2018.

Ronald B. Leighton
Ronald B. Leighton
United States District Judge