

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAMON CHARLES WILLIAMS,  
  
Plaintiff,  
  
v.  
  
PRK FUNDING SERVICES INC,  
  
Defendant.

CASE NO. C18-0048 RSM  
  
ORDER DENYING MOTION FOR  
RECONSIDERATION  
  
[DKT. # 118]

THIS MATTER is before the Court on referral from Chief Judge Martinez THIS MATTER is before the court on review of Chief Judge Ricardo Martinez’s Order [Dkt. # 120], declining to Recuse himself in response to Plaintiff Williams’ “Motion for Contempt [Confidential Personnel Matter]” [Dkt. #118]. The Order was referred to this Court as the most senior non-Chief Judge under 28 U.S.C. §144 and LCR 3(e).

Williams’ Motion suggests that he seeks to hold Judge Martinez in contempt for his prior actions or rulings:

1 16. Damon Charles Willams and moves the above-entitled court of  
2 record to find the Honorable Ricardo S. Martinez, Chief United  
3 States District Judge [a Magistrate of said court of record]  
4 civil contempt of the above-entitled court and case.

5 [Dkt. # 118 at 14]. Judge Martinez had previously denied [Dkt. # 70] Williams' "Motion for Writ  
6 of Error, [Dkt. # 63], and more recently Ordered Williams to Show Cause regarding his apparent  
7 failure to serve the defendants despite the passage of far more than 90 days since filing [Dkt. #  
8 108]. Chief Judge Martinez characterized Williams current Motion for one as Reconsideration,  
9 and perhaps for Recusal, Denied it, and referred it to this Court as the most senior non-Chief  
10 Judge under 28 U.S.C. § 144 and LCR 3(e).

11 A federal judge should recuse himself if "a reasonable person with knowledge of all the  
12 facts would conclude that the judge's impartiality might reasonably be questioned." 28 U.S.C.  
13 § 144; *see also* 28 U.S.C. § 455; *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir.  
14 1993). This objective inquiry is concerned with whether there is the appearance of bias, not  
15 whether there is bias in fact. *See Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *see*  
16 *also United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980). ). In the absence of specific  
17 allegations of personal bias, prejudice, or interest, neither prior adverse rulings of a judge nor his  
18 participation in a related or prior proceeding is sufficient" to establish bias. *Davis v. Fendler*, 650  
19 F.2d 1154, 1163 (9th Cir. 1981). Judicial rulings alone "almost never" constitute a valid basis for  
20 a bias or partiality motion. *Liteky v. United States*, 510 U.S. 540, 555 (1994).

21 Williams' Motion does not approach this standard. His Motion and his reasoning is hard  
22 to follow, but it is clear that he is complaining about and objecting to rulings Judge Martinez has  
23 made in this case:

1 7. The Minute Order [rule nisi] issued under Dkt. #70 by the  
2 Honorable Ricardo S. Martinez styled as Case No. C18-48RSM and  
3 appears to be in an improper venue, for want of the proper  
4 Docket Number. The Minute Order styled under Case No.  
5 C18-48RSM is not a valid, not binding<sup>8</sup> and is not considered a  
6 part of the courts record [civil docket], but merely a part of  
7 the clerk's minutes [book]. Further, it should be noted that  
8 the online search-ability of the filings formatted in  
9 accordance with the format of docket numbers, which are  
10 prescribed by the Director of the Administrative Office of the  
11 United States Courts with the approval of the Judicial  
12 Conference, requires less labor to locate.

13 8. Because the Minute Order is not created by the independent  
14 tribunal, but is created by the magistrate, it cannot be a  
15 valid order issued from a court of record<sup>9</sup>. Minutes are not  
16 considered as any part of the record. The magistrate did  
17 willfully violate a lawful Writ of Error<sup>10</sup> by filing the ORDER  
18 ON PENDING MOTIONS under Dkt. #107 under C18-48 RSM. Pursuant  
19 to Rules the magistrate is reminded that he must comply with  
20 the law.<sup>11</sup>

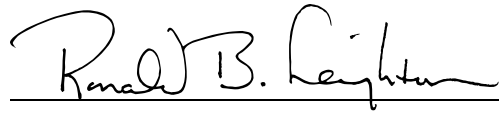
21 [Dkt. # 118 at 4-5].

22 Such rulings "almost never" require recusal, or the more unusual act of a Court "holding  
23 itself in contempt." Williams has identified no acts or conduct or facts of any kind even  
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1 suggesting bias or prejudice. His Motion is frivolous and it is DENIED. Judge Martinez's  
2 underlying Order [Dkt. #120] is AFFIRMED.

3 IT IS SO ORDERED.

4 Dated this 16<sup>th</sup> day of August, 2018.

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7 Ronald B. Leighton  
8 United States District Judge  
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