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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

8 TYLER BONNER,

9 Plaintiff,

10 v.

11 KILOLO KIJAKAZI, ACTING  
12 COMMISSIONER OF THE U.S. SOCIAL  
13 SECURITY ADMINISTRATION,

13 Defendant.

CASE NO. C20-1572 DWC

ORDER AFFIRMING ORDER DECLINING  
TO VOLUNTARILY RECUSE

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15 This matter is before the Court, under the local rules, for review of United States  
16 Magistrate David W. Christel's order denying Plaintiff's request that he voluntarily recuse  
17 himself from this case. Dkt. #39; LOCAL RULES W.D. WASH. LCR 3(f) (order denying voluntary  
18 judicial recusal referred to the Chief Judge for review). Having reviewed the matter, the Court  
19 affirms Judge Christel's order.

20 **A. Background**

21 Plaintiff initiated this action to obtain judicial review of the United States Social Security  
22 Administration's ("SSA") final decision denying his application for disability insurance and  
23 supplemental security income benefits. Dkt. #5. Plaintiff maintained that the administrative law  
24 judge's decision, subsequently affirmed by SSA's Appeals Council, was based on errors of law

1 and was unsupported by substantial evidence. *Id.* Judge Christel disagreed, and affirmed the  
2 administrative law judge’s decision. Dkt. #34. Plaintiff quickly filed a motion to alter or amend  
3 the judgment and, in the same motion, sought to have Judge Christel recuse himself from any  
4 further proceedings. Dkt. #36. Judge Christel denied Plaintiff’s request for voluntarily recusal,  
5 without addressing the merits of the underlying motion to alter or amend judgment, and referred  
6 the matter to the Undersigned. Dkt. #39.

7       Primarily, Plaintiff takes issue with the tone of Judge Christel’s order:

8       Given the tone of the Order, Plaintiff requests that Magistrate Christel recuse  
9 himself from any further adjudication in this case. Plaintiff understands that  
10 Magistrate Christel has a nationwide, well deserved reputation for excellence in  
11 legal reasoning, ethics, and judicial demeanor. Plaintiff’s counsel is honored to  
be an officer of Christel’s court. But in this particular case, perhaps due to the  
tense inundation of new *Seila* arguments filed late in the game across the nation,  
Magistrate Christel has reacted without his usual professionalism.

12 *Id.* at 8. Additionally, and intertwined with his substantive legal arguments, Plaintiff takes issue  
13 with Judge Christel’s judicial decision not to sua sponte impose sanctions on defense counsel.  
14 Dkt. #38 at 3–4. Specifically, Plaintiff points to defense counsel’s characterization, quotation,  
15 and citation of a specific case, actions which Judge Christel found “invited ambiguity.” *Id.* at 3.<sup>1</sup>

## 16       **B. Legal Standard**

17       A “judge of the United States shall disqualify himself in any proceeding in which his  
18 impartiality might reasonably be questioned.” 28 U.S.C. § 455(a); *see also* 28 U.S.C. § 144.  
19 This includes circumstances where the judge has “a personal bias or prejudice concerning a party,  
20 or personal knowledge of disputed evidentiary facts concerning the proceeding.” 28 U.S.C.  
21 § 455(b)(1). Recusal is appropriate if “a reasonable person with knowledge of all the facts would  
22 conclude that the judge’s impartiality might reasonably be questioned.” *Yagman v. Republic*

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24 <sup>1</sup> Plaintiff does not point to any portion of the record where he brought the propriety of sanctions  
before the Court.

1 *Insurance*, 987 F.2d 622, 626 (9th Cir. 1993). This is an objective inquiry concerned with  
2 whether there is the appearance of bias, not whether there is bias in fact. *Preston v. United States*,  
3 923 F.2d 731, 734 (9th Cir. 1992); *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).

#### 4 **C. Discussion**

5 At the outset, the Court notes that Plaintiff's concerns all stem from Judge Christel's order  
6 affirming the administrative action at issue in this case.

7 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality  
8 motion. . . . [O]pinions formed by the judge on the basis of facts introduced or  
9 events occurring in the course of the current proceedings, or of prior proceedings,  
10 do not constitute a basis for a bias or partiality motion unless they display a deep  
11 seated favoritism or antagonism that would make fair judgment impossible. Thus,  
12 judicial remarks during the course of a trial that are critical or disapproving of, or  
13 even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias  
14 or partiality challenge.

15 *Liteky v. United States*, 510 U.S. 540, 555 (1994). Relying solely on Judge Christel's order  
16 resolving the case, Plaintiff sets himself on a difficult course.

17 Additionally, Plaintiff takes issue with the language of Judge Christel's order, although  
18 he does not point to any specific passages. Dkt. #36 at 7 (“[T]he tone of the Order [of] this Court  
19 is in places not professional and includes moralizing and exasperation, as if Plaintiff has done  
20 something wrong.”). Notably, and while Judge Christel's legal findings and conclusions may  
21 have been set forth more bluntly than Plaintiff would prefer, Plaintiff does not contend that Judge  
22 Christel mischaracterizes the record or prior proceedings. Plaintiff's objection, then, is based  
23 solely on his subjective opinion of the merits of his case. But, to the extent Plaintiff disagrees  
24 with Judge Christel's conclusions and legal analysis, the legal propriety of the order is an issue  
for further litigation or, if Plaintiff chooses, possibly for appeal.

