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

8 JOEL CHRISTOPHER HOLMES,

9 Plaintiff,

10 v.

11 MAGGIE MILLER-STOUT, et al.,

12 Defendants.

CASE NO. C17-5145 RJB

ORDER ON REVIEW OF
REFUSAL TO RECUSE

13 This matter comes before the Court on Plaintiff's motion to recuse U.S. District Judge
14 Robert J.. Bryan. Dkt. #13. Upon review of the motion, Judge Bryan declined to recuse himself.
15 Dkt. #15. In accordance with the Local Rules of this District, Plaintiff's motion was referred to
16 the Undersigned for a review of Judge Bryan's refusal to recuse. LCR 3(e).

17 Plaintiff bases his motion to recuse on two grounds: (1) his allegation that he has been
18 accused of threatening Judge Bryan and other public officials, and (2) his conclusory allegation
19 that Judge Bryan is "hostile to Prisoner 'Civil Rights' Litigation." Dkt. #3 at 1.

20 Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in any
21 proceeding in which his impartiality "might reasonably be questioned." Federal judges also shall
22 disqualify themselves in circumstances where they have a personal bias or prejudice concerning a
23 party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C.
24 § 455(b)(1).

1 Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
2 if “a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality
3 might reasonably be questioned.” *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir.
4 1993). This is an objective inquiry concerned with whether there is the appearance of bias, not
5 whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *United*
6 *States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980). In *Liteky v. United States*, 510 U.S. 540
7 (1994), the United States Supreme Court further explained the narrow basis for recusal:

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

16 *Id.* at 555.

17 A judge’s conduct in the context of this or previous judicial proceedings does not constitute
18 the requisite bias under 28 U.S.C. § 144 or § 455 if it is prompted solely by information that the
19 judge received in the context of the performance of his duties. Bias is almost never established
20 simply because the judge issued adverse rulings against a party.

21 In order to overcome this presumption, Plaintiff would have to show that facts outside the
22 record influenced decisions or that the judge’s rulings were so irrational that they must be the result
23 of prejudice. Plaintiff provides no evidence to indicate that Judge Bryan was even aware that he
24 was the object of any suspected “threats” or other communications by Plaintiff (nor does it appear
that Plaintiff was charged with any crime as a result of these alleged “threats”), so there is nothing
upon which to base a finding of bias or impartiality on the presiding judge’s part.

1 Plaintiff does not allege any facts outside the record that improperly influenced the
2 decisions in his matter. Nor are Plaintiff's vague, unsupported observations about Judge Bryan's
3 alleged "hostility" to prison civil rights litigation adequate to justify an order of recusal. Outside
4 of his general, conclusory accusations, Plaintiff cites to no specific rulings that are either
5 outlandish or irrational or in any way give rise to an inference of bias or hostility toward Plaintiff.
6 On the contrary: in the same order in which Judge Bryan declines to voluntarily recuse, he granted
7 Plaintiff's motion to amend his complaint and partially granted his motion for service by the U.S.
8 Marshals. Dkt. #15 at 2-3.

9 The Court finds no evidence upon which to reasonably question Judge Bryan's impartiality
10 and AFFIRMS his denial of Plaintiff's request that he recuse himself.

11 The Clerk SHALL provide copies of this Order to Plaintiff and to all counsel of record.

12 Dated this 12 day of July, 2017.

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14 RICARDO S. MARTINEZ
15 CHIEF UNITED STATES DISTRICT JUDGE
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