

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Thomas v. Fry

No. 2:19-cv-01041 KJM CKD P, United States District Court for the Eastern District of California (March 6, 2023)

SUMMARY

The United States District Court for the Eastern District of California denied plaintiff Otis Michael Thomas’s motion to recuse the undersigned judge. The court held that the motion relied solely on judicial decisions made during the proceeding and did not identify an extrajudicial basis or any reasonable grounds to question the judge’s impartiality under 28 U.S.C. § 455.

CASE DETAILS

|                    |                                                                                                                                                                                                                                                                                         |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the Eastern District of California                                                                                                                                                                                                                     |
| JURISDICTION       | United States District Court for the Eastern District of California                                                                                                                                                                                                                     |
| DECIDED            | March 6, 2023                                                                                                                                                                                                                                                                           |
| DOCKET             | 2:19-cv-01041 KJM CKD P                                                                                                                                                                                                                                                                 |
| DISPOSITION        | other                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE | Plaintiff moved for recusal of the undersigned district judge under 28 U.S.C. § 455.                                                                                                                                                                                                    |
| STANDARD OF REVIEW | Recusal is required under 28 U.S.C. § 455 when a judge's impartiality might reasonably be questioned or the judge has a personal bias or prejudice against a party; alleged bias generally must stem from an extrajudicial source rather than conduct or rulings during the proceeding. |
| PRECEDENTIAL VALUE | Unpublished district court order; precedential status not specified in the source.                                                                                                                                                                                                      |

TOPICS

civil procedure

PRACTICE AREAS

civil procedure    judicial disqualification

QUESTIONS PRESENTED

- 1. Whether the plaintiff established a basis requiring recusal under 28 U.S.C. § 455.

HOLDINGS

- 1. Recusal was not required because plaintiff's motion relied solely on the court's decisions during the proceeding and identified no adequate basis to question the judge's impartiality.

KEY QUOTATIONS

- “However, judges must recuse “only if the bias or prejudice stems from an extrajudicial source and not from conduct or rulings made during the course of the proceeding.”” (at 1)*
- “Because plaintiff fails to identify any adequate basis for recusal, and because there is no basis to reasonably question the undersigned’s impartiality, plaintiff’s motion is denied.” (at 1)*

FACTUAL BACKGROUND

Plaintiff sought recusal of the assigned district judge. The motion was based solely on the court's decisions during the proceeding, and plaintiff did not identify an extrajudicial source of bias or prejudice.

PROCEDURAL HISTORY

In this pending prisoner civil-rights action, plaintiff filed a motion seeking recusal of the assigned judge. The court determined that the motion relied solely on decisions made during the proceeding, identified no adequate basis for recusal, and denied the motion.

DISPOSITION

other

CASES CITED

- United States v. \$292,888.04 in U.S. Currency, 54 F.3d 564, 566-57 (9th Cir. 1995)
- Pau v. Yosemite Park & Curry Co., 928 F.2d 880, 885 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 1] OTIS MICHAEL THOMAS, No. 2:19-cv-01041 KJM CKD P 12 Plaintiff,  
13 Vv. ORDER 14 J.C. FRY, et al., 15 Defendants. 16 17 Plaintiff has filed a motion asking that  
the undersigned recuse. Recusal is governed by 18 | 28 U.S.C. § 455. District judges are statutorily  
obligated to recuse themselves if their 19 | “impartiality might reasonably be questioned” or if they  
“have a personal bias or prejudice 20 | against a party.” United States v. \$292,888.04 in U.S.  
Currency, 54 F.3d 564, 566-57 (9th Cir.

21 | 1995). However, judges must recuse “only if the bias or prejudice stems from an extrajudicial  
22 || source and not from conduct or rulings made during the course of the proceeding.” *Pau v.* 23 ||  
*Yosemite Park & Curry Co.*, 928 F.2d 880, 885 (9th Cir. 1991) (internal quotation omitted). 24 |  
Here, plaintiff moves for recusal solely based on the court’s decisions during this proceeding.

25 | Because plaintiff fails to identify any adequate basis for recusal, and because there is no basis  
26 || to reasonably question the undersigned’s impartiality, plaintiffs motion is denied. 27 ||  
DATED: March 6, 2023. 2 2 28 CHIEF ED STATES DISTRICT JUDGE