

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.

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