

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Erika Jacobs v. Twin Cities Development Association, Inc. and Katy A. Reichert

Jacobs · No. 8:25CV549 · Decided January 28, 2026

SUMMARY

The United States District Court for the District of Nebraska denied Erika Jacobs’s motion to recuse the judge and her motion for reconsideration of the court’s prior judgment remanding her state-court case. The court held that disagreement with an unfavorable ruling did not establish judicial bias and that Jacobs could not remove her own state-court action to federal court. The court denied as moot her motion for review and duplicate motion for reconsideration.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	M. Gerrard
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	January 28, 2026
DOCKET	8:25CV549
DISPOSITION	other
PROCEDURAL POSTURE	The district court considered the plaintiff's motion for recusal, her motion objecting to the court's prior judgment construed as a motion for reconsideration under Federal Rules of Civil Procedure 59(e) and 60(b), and related motions requesting review and filing a duplicate reconsideration motion.
STANDARD OF REVIEW	A motion under Rule 59(e) is evaluated under the limited grounds of correcting manifest errors of law or fact or presenting newly discovered evidence. Relief under Rule 60(b)(6) requires extraordinary circumstances. A recusal request under 28 U.S.C. § 144 requires a timely and sufficient affidavit alleging personal bias or prejudice stemming from an extrajudicial source.
PRECEDENTIAL VALUE	unpublished
PARTIES	Erika Jacobs v. Twin Cities Development Association, Inc., Katy A. Reichert

TOPICS

motion for reconsideration

subject matter jurisdiction

appellate procedure

federalism

civil procedure

PRACTICE AREAS

civil procedure

federal jurisdiction

judicial disqualification

appellate procedure

QUESTIONS PRESENTED

1. Whether the plaintiff's motion established a legally sufficient basis for judicial recusal under 28 U.S.C. § 144.
2. Whether the plaintiff was entitled to relief from the prior judgment under Federal Rule of Civil Procedure 59(e) or 60(b).
3. Whether the plaintiff's additional motion requesting review and duplicate motion for reconsideration remained justiciable after the court denied the recusal and reconsideration motions.

HOLDINGS

1. The motion to recuse was properly denied because it was not a qualifying affidavit and the plaintiff's allegations, based solely on the court's unfavorable prior ruling, did not demonstrate personal bias or prejudice arising from an extrajudicial source.
2. The plaintiff was not entitled to alter, amend, or obtain relief from the prior judgment because she did not show a manifest error of law or fact, newly discovered evidence, any applicable Rule 60(b) ground, or extraordinary circumstances.
3. The motion requesting review and the duplicate motion for reconsideration were denied as moot because the court had already considered and denied the recusal and reconsideration motions.

KEY QUOTATIONS

“That is, “bias or prejudice” doesn't include opinions held by judges acquired in the course of the proceedings, nor does it include opinions held as a result of what judges learned in earlier proceedings.”

“There is no federal law authorizing plaintiff to remove her state court action to federal court.”

FACTUAL BACKGROUND

Jacobs filed a state civil action in the District Court of Scotts Bluff County, Nebraska and sought to remove it to the United States District Court for the District of Nebraska. After the federal court denied removal and remanded the case, Jacobs asserted that the ruling was unethical and sought the judge's recusal. She also argued that she had a right to transfer the case to federal court and that the federal court possessed jurisdiction, seeking relief from the prior judgment.

PROCEDURAL HISTORY

Jacobs initially sought to remove her state-court civil action from the District Court of Scotts Bluff County, Nebraska, to the federal district court. The federal court previously denied the removal request and remanded the

case to state court. Jacobs then moved for recusal and reconsideration of that judgment, and filed additional motions requesting review and duplicating her reconsideration motion. The court denied recusal and reconsideration and denied the remaining motions as moot.

DISPOSITION

other

CASES CITED

- United States v. Faul, 748 F.2d 1204, 1211 (8th Cir. 1984)
- Liteky v. United States, 510 U.S. 540, 551 (1994)
- In re Steward, 828 F.3d 672, 682 (8th Cir. 2016)
- United States v. Rubashkin, 655 F.3d 849, 858 (8th Cir. 2011)
- United States v. Melton, 738 F.3d 903, 906 (8th Cir. 2013)
- United States v. Larsen, 427 F.3d 1091, 1095 (8th Cir. 2005)
- United States v. Martin, 757 F.3d 776, 778 (8th Cir. 2014)
- Sanders v. Clemco Indus., 862 F.2d 161, 168 (8th Cir. 1988)
- United States v. Metro. St. Louis Sewer Dist., 440 F.3d 930, 933 (8th Cir. 2006)
- Buck v. Davis, 137 S. Ct. 759, 777-78 (2017)
- Gonzalez v. Crosby, 545 U.S. 524 (2005)
- Fonder v. S. Dakota, No. 1:21-CV-01023-CBK, 2021 WL 4710781, at *3 (D.S.D. Oct. 8, 2021)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA ERIKA JACOBS, Plaintiff, 8:25CV549 vs. MEMORANDUM AND ORDER TWIN CITIES DEVELOPMENT ASSOCIATION, INC., and KATY A. REICHERT, Defendants Attorney; Defendants. This matter is before the Court on Plaintiff Erika Jacobs’ motion asking for my recusal. Filing No. 7. Also before the Court is Plaintiff’s motion objecting to the Court’s September 22, 2025, Judgment, which the Court liberally construes as a motion for reconsideration, Filing No. 8, and her motion requesting review of her motion for reconsideration, Filing No. 9, which she filed along with a duplicate of her motion for reconsideration, see Filing No. 10.

For the reasons that follow, Plaintiff’s motions for recusal and for reconsideration will be denied, and her motion requesting review and her duplicate motion for reconsideration will be denied as moot. I. MOTION TO RECUSE Plaintiff seeks my recusal claiming that my decision to deny her request to remove her state civil case from the District Court of Scotts Bluff County, Nebraska, to this Court was “unethical,” and she asks that her request be reviewed by the Chief Judge.

Filing No. 7. However, Plaintiff's disagreement with the Court's September 22, 2025, ruling, see Filing Nos. 5 & 6, does not support my disqualification nor does it require review by another judge. Pursuant to 28 U.S.C. § 144, Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

Plaintiff's motion to recuse does not qualify as an "affidavit" within the meaning of § 144, and her allegations here are insufficient to demonstrate personal bias or prejudice. To support judicial disqualification, a legally sufficient affidavit must allege bias or prejudice, and such bias or prejudice must stem from an extrajudicial source. *United States v. Faul*, 748 F.2d 1204, 1211 (8th Cir.

1984). That is, "bias or prejudice" doesn't include opinions held by judges acquired in the course of the proceedings, nor does it include opinions held as a result of what judges learned in earlier proceedings. *Liteky v. United States*, 510 U.S. 540, 551 (1994). A party isn't entitled to recusal even when a judge is ill-disposed toward him, where the judge's knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings.

In *re Steward*, 828 F.3d 672, 682 (8th Cir. 2016); see *United States v. Rubashkin*, 655 F.3d 849, 858 (8th Cir. 2011). And judicial rulings rarely establish a valid basis for recusal. *United States v. Melton*, 738 F.3d 903, 906 (8th Cir. 2013).

Here, Plaintiff's accusations are substantiated only by this Court's unfavorable ruling in the September 22, 2025, Memorandum and Order and Judgment, which is neither extrajudicial nor indicative of bias. See *United States v. Larsen*, 427 F.3d 1091, 1095 (8th Cir. 2005); see also *United States v. Martin*, 757 F.3d 776, 778 (8th Cir. 2014).

Accordingly, Plaintiff's motion to recuse is denied. II. MOTION FOR RECONSIDERATION On October 20, 2025, Plaintiff filed a "Motion to Object," which the Court construes as a motion for reconsideration. Because Plaintiff has not indicated which provision of the Federal Rules of Civil Procedure she is relying upon in making the motion, it may be treated either as a Rule 59(e) motion to alter or amend judgment or as a Rule 60(b) motion for relief from judgment.¹ See *Sanders v. Clemco Indus.*, 862 F.2d 161, 168 (8th Cir.

1988). But whichever rule is applied, the motion fails. Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence. *United States v. Metro. St. Louis Sewer Dist.*, 440 F.3d 930, 933 (8th Cir. 2006). Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.

Id. Under Rule 60(b), a court may grant a party relief from a judgment for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

1 A Rule 59(e) motion “must be filed no later than 28 days after the entry of judgment.” Fed. R. Civ. P. 59(e). A Rule 60(b) motion “must be made within a reasonable time.” Fed. R. Civ. P. 60(c) (1). Plaintiff’s motion was timely filed on October 20, 2025. Fed. R. Civ. P. 60(b). Relief under the catchall provision, Rule 60(b)(6), is available only in “extraordinary circumstances.” *Buck v. Davis*, 137 S. Ct.

759, 777–78 (2017) (quoting *Gonzalez v. Crosby*, 545 U.S. 524 (2005)). Liberally construed, Plaintiff asks the court to reconsider its September 22, 2025, Memorandum and Order and Judgment, Filing Nos. 5 & 6, denying Plaintiff’s request to remove her state case to this Court and remanding the case back to the District Court of Scotts Bluff County, Nebraska, because, Plaintiff argues, she “has a right to transfer her case to federal court,” “[t]he judge presented no reason as to why this case should not be docketed other than appeal[, and] [t]his is not an appeal,”² and “[t]he federal court has jurisdiction.” Filing No. 8.

However, as the Court explained in its previous Memorandum and Order, only defendants have the right to remove a case from state court to federal court. See Filing No. 5 at 4. Assuming she could have established this Court’s federal subject matter jurisdiction, Plaintiff may have been able to initially file her claims against the defendants in this Court, but she chose to file first in state court.

And, once she made the choice to file her case in the state district court, “[t]here is no federal law authorizing plaintiff to remove [her] state court action to federal court.” *Fonder v. S. Dakota*, No. 1:21-CV-01023-CBK, 2021 WL 4710781, at *3 (D.S.D. Oct. 8, 2021). Plaintiff’s arguments to the contrary have no merit.

Accordingly, upon consideration of Plaintiff’s motion, the Court concludes Plaintiff has not demonstrated any legitimate reason for altering, amending, or otherwise obtaining any relief from the Court’s judgment of 2 The Court notes that Plaintiff’s statements regarding this case apparently being docketed as an appeal suggest some misunderstanding on her part of the “Notice-Civil Appeals in Pro Se Cases” informational sheet attached to the Court’s judgment.

See Filing No. 8 at 4. The Court did not docket, nor consider, this case as an appeal of the state court case. Rather, the “Notice” regarding civil appeals in pro se cases was attached to the Court’s

judgment to inform Plaintiff of the relevant deadlines and rules if she wanted to appeal this Court's judgment denying her request for removal to the Eighth Circuit Court of Appeals. dismissal.

She has not shown that the dismissal was the result of manifest error of law or fact nor has she presented any "extraordinary circumstances" justifying relief. Thus, Plaintiff has failed to establish sufficient grounds for setting aside the Court's judgment under Rule 59(e) or Rule 60(b), and her motion for reconsideration is denied.

In light of the Court's ruling and statements in Plaintiff's motion that suggest some misunderstanding on her part regarding the "Notice" related to civil appeals in pro se cases, see footnote 2, supra, the Court takes this opportunity to inform Plaintiff that if she wishes to appeal this Court's judgment to the Eighth Circuit Court of Appeals, then she must file a notice of appeal within 30 days of the date of this order.

See Fed. R. App. P. 4(a)(4)(A) (If a party files a motion to alter or amend the judgment under Rule 59, the time to file an appeal runs from the entry of the order disposing of the motion.). III. REMAINING MOTIONS Because the Court has considered and denied Plaintiff's motion to recuse and motion for reconsideration, Plaintiff's motion requesting review of her motions and her duplicate motion for reconsideration filed on December 16, 2025, are denied as moot.

IT IS THEREFORE ORDERED that: 1. Plaintiff's motion to recuse, Filing No. 7, is denied. 2. Plaintiff's motion to object, construed as a motion for reconsideration under Rule 59(e) and Rule 60(b), Filing No. 8, is denied. 3. Plaintiff's motion for review, Filing No. 9, and duplicate motion for reconsideration, Filing No. 10, are denied as moot. Dated this 28th day of January, 2026.

BY THE COURT: M. Gerrard enior United States District Judge