

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Dang v. Pontier

Dang · No. 19cv1519-LL-DDL · Decided March 27, 2025

SUMMARY

The United States District Court for the Southern District of California denied David Pontier’s motion to recuse Judge Linda Lopez in an interpleader action and related litigation. The court held that the judge’s membership in the State Bar of California and alleged delays in ruling on Pontier’s motions did not establish that her impartiality might reasonably be questioned or demonstrate deep-seated favoritism or antagonism.

OPINION

Dang v. Pontier

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 JOSEPH DANG, Case No.: 19cv1519-LL-DDL 12 Plaintiff,

ORDER DENYING DAVID

13 v. PONTIER’S MOTION FOR

RECUSAL

14 DAVID PONTIER, et al., 15 Defendants. [ECF No. 205] 16

17 DAVID PONTIER,

18 Counterclaimant, 19 v. 20 JOSEPH DANG, et al., 21 Counterdefendants. 22 23 Before the Court is a Motion for Recusal (“Motion”) filed by 24 Defendant/Counterclaimant David Pontier (“Pontier”), proceeding pro se. ECF No. 205. 25 The Court finds this matter suitable for determination on the papers and without oral 26 argument pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7.1(d)(1). 27 Upon review of the Motion and the applicable law, the Court DENIES the Motion for the 28 reasons set forth below. 1 Pontier argues the undersigned should recuse herself from this interpleader case and 2 the related case of Pontier v. GEICO Insurance, No. 21cv199-LL-DDL (S.D. Cal.), in 3 which Pontier asserts causes of action against the State Bar of California, due to judicial 4 bias and conflict of interest because of her status as a member of the State Bar of California. 5 ECF No 205 at 1–2, 15. Pontier also contends recusal is warranted due to “violation of 6 Defendant Pontier[‘s] constitutional right to due process of law denied by failing to issue 7 rulings on Defendant Pontier Interpleader defenses

asserted in Motion to Dismiss, Motion 8 for Change of Venue, Motion for Sanction.” Id. at 2. 9 Recusal is appropriate where the judge “has a personal bias or prejudice concerning 10 a party.” 28 U.S.C. §§ 144, 455. The Ninth Circuit has stated: 11 The substantive standard for recusal under 28 U.S.C. § 144 and 28 U.S.C. § 455 is the same: “[W]hether a reasonable person with knowledge of all the 12 facts would conclude that the judge’s impartiality might reasonably be 13 questioned.” *United States v. Studley*, 783 F.2d 934, 939 (9th Cir.1986) (quotation omitted). Ordinarily, the alleged bias must stem from an 14 “extrajudicial source.” *Liteky v. United States*, 510 U.S. 540, 554-56, 114 15 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994). “[J]udicial rulings alone almost never constitute valid basis for a bias or partiality motion.” Id. “[O]pinions 16 formed by the judge on the basis of facts introduced or events occurring in the 17 course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated 18 favoritism or antagonism that would make fair judgment impossible.” Id. 19 20 *United States v. Hernandez*, 109 F.3d 1450, 1453–54 (9th Cir. 1997). 21 The Court finds Pontier has failed to demonstrate that “a reasonable person with 22 knowledge of all the facts would conclude that the judge’s impartiality might reasonably 23 be questioned.” Id. at 1453 (citation omitted). Pontier claims the undersigned should recuse 24 because Plaintiff is also a member of the State Bar of California and, in the related case, 25 Pontier is suing the State Bar of California. ECF No. 205 at 1–2. The Court finds the 26 undersigned’s bar membership alone does not warrant recusal. See *Denardo v. 27 Municipality of Anchorage*, 974 F.2d 1200, 1201 (9th Cir. 1992) (citation omitted) (“The 28 fact that a plaintiff sues a bar association does not require recusal of judges who are 1 members of that bar association.”); *Block v. Washington State Bar Ass’n*, No. C15-2018 2 RSM, 2016 WL 11787683, at *2 & n.1 (W.D. Wash. Feb. 24, 2016) (“There are a string 3 of cases holding that just belonging to a bar association is not the kind of relationship which 4 gives rise to a reasonable doubt about a judge's ability to preside impartially over a case in 5 which the bar association is a party.”). 6 Pontier contends that in the present case and in the related case, “[o]nly Defendant 7 Pontier motions are not ruled upon within 35 days,” inferring that this is a sign of bias in 8 favor of the State Bar of California. ECF No. 205 at 4. Pontier is mistaken and has a 9 misunderstanding about the timing of rulings. The undersigned directs parties filings 10 motions in civil cases to notice a hearing date that is thirty-five days from the date the 11 motion is filed. Judge Linda Lopez Civil Chambers Rules, Section 3.B, 12 <https://www.casd.uscourts.gov/Judges/Judge-Info.aspx>. “The hearing date does not 13 indicate a date for when appearances are necessary; rather, it sets the briefing schedule for 14 the motion pursuant to the applicable local rules including Civil Local Rule 7.1(e).” Id. 15 Contrary to what Pontier believes, there is no rule requiring motions to be ruled on within 16 thirty-five days. The undersigned has ruled on motions in the present case and related case 17 from all parties both under and over thirty-five days. In this district, there are 463 weighted 18 filings per judgeship. See *Judicial Emergencies* (March 26, 2025), 19 <https://www.uscourts.gov/data-news/judicial-vacancies/judicial-emergencies>. The 20 undersigned manages a busy civil and criminal docket and

Pontier's frustration with any 21 delays in ruling on his motions do not demonstrate bias. The Court finds Pontier provides 22 no facts showing that the undersigned's bar membership creates bias or "a deep-seated 23 favoritism or antagonism that would make fair judgment impossible." See Hernandez, 109 24 F.3d at 1454 (citation omitted); Block, 2016 WL 11787683, at *2 (declining to recuse based 25 / / / 26 / / / 27 / / / 28 / / / 1 }on bar association membership); Hills v. Serv. Emps. Int'l Union, No. 09CV1919 WQH 2 || WVG, 2011 WL 3667643, at *1—2 (S.D. Cal. Aug. 19, 2011), aff'd, 520 F. App'x 555 3 Cir. 2013) (declining to recuse based on perceived procedural delays). Accordingly, 4 || the Court DENIES Pontier's Motion for Recusal. 5 IT IS SO ORDERED. 6 || Dated: March 27, 2025 NO g Honorable Linda Lopez 9 United States District Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28