

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

STEVEN CASPERSON, MATTHEW FRANK,
JON E. LITSCHER, LAURA WOOD,
GERALD BERGE, PETER HUIBREGTSE,
GARY BOUGHTON, VICKI SEBASTIAN,
CPT. TIMOTHY HAINES, LINDA HODDY,
CINDY O'DONNELL, LT. GARDINER,
JULIE BIGGAR, SGT. HANKE, TODD OVERBO,
SANDRA GRONDIN, JoANNE GOUIERE (JANE DOE),
MIKE VANDERLOH, RON KOPLITZ, ELLEN RAY,
GARY McCAUGHTRY, MARC CLEMENTS,
DEBRA TETZLAFF, CPT. STEVE SCHUELER,
C.O. WATSON, CHAPLAIN FRANCIS,
BYRON BARTOW, KATHLEEN BELLAIRE,
and STEVE SPANBAUER,

Defendants.

ORDER

02-C-473-C

Plaintiff has filed a "Notice and Motion to Modify Magistrate's December 15th, 2004 Order." As plaintiff is aware, the standard for reviewing a pretrial order of a magistrate judge is whether it is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R.

Civ. P. 72(a). Nothing in plaintiff's objections to the magistrate judge's December 15 order convinces me that it was clearly erroneous or contrary to law for the magistrate judge to grant defendants' motions to file two expert reports under seal and to submit certain documents in camera.

Within his motion, plaintiff asks that the magistrate judge and me to recuse ourselves from the case because we characterized recent comments by plaintiff in an earlier submission as "pathetic," because the magistrate judge "yelled" at plaintiff during the scheduling conference and because "this court's judgments have been vacated and remanded 3 times in [his] cases." None of these incidents require recusal or disqualification under 28 U.S.C. §§144 and 455. Liteky v. United States, 510 U.S. 540, 555 (1994) (judicial rulings alone almost never constitute a valid basis for a bias or partiality motion); United States v. Slaughter, 900 F.2d 1119, 1126 n.5 (7th Cir. 1990) (bias and prejudice must be personal, not based on particular judicial proceeding; judge's unfavorable impressions of a party or belief that a party is dishonest not grounds for recusal); Rosen v. Sugarman, 357 F.2d 794, 798 (2d Cir. 1966) (occasional display of irritation does not suffice to show personal bias or prejudice, whether irritation was justified or not).

Accordingly, IT IS ORDERED that the decision entered by the United States Magistrate Judge on December 15, 2004 remains as entered because plaintiff has failed to show that the decision is clearly erroneous or contrary to law.

Further, IT IS ORDERED that plaintiff's motion for my disqualification or recusal and Magistrate Judge Crocker's disqualification or recusal is DENIED.

Entered this 27th day of December, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge