IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

- -

WENDY ALISON NORA,

ORDER

Plaintiff,

10-cv-709-bbc

v.

JUAN B. COLAS, in his judicial capacity for purposes of declaratory relief only,
JUAN B. COLAS, in his individual capacity for non-judicial actions,
DANE COUNTY CIRCUIT COURT, in its official capacity,
CARLOS ESQUEDA, Cler of Dane County Circuit Court in his official capacity for declaratory relief only,
CARLOS ESQUEDA, Cler of Dane County Circuit Court in his individual capacity for criminal damages, and
VICKI GILBERTSON, Deputy Clerk of Dane County Circuit Court in her official capacity only,

Defendants.

- -

Plaintiff Wendy Alison Nora has moved for my disqualification under 28 U.S.C. § 455(a) and (b) because she thinks my impartiality in this case might be reasonably questioned. She bases this on my having heard a matter involving plaintiff's need for

disability accommodations, which was an appeal from an order of the bankruptcy court lifting the automatic stay in a bankruptcy case plaintiff had filed on her own behalf. In case no. 01-cv-68-bbc, I upheld the magistrate judge's determination that plaintiff was not entitled to a third extension of the time for filing her briefs in opposition to her creditor's request to lift the automatic stay. At the point the magistrate judge ruled, he had already granted plaintiff one 62-day extension; she wanted a second extension of 30 days in which to seek consolidation of two cases and another 15 days after the court had ruled on the consolidation issue in which to file a brief in opposition to the creditor's motion.

It is well settled that

> judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. . . . In and of themselves (i.e., apart from surrounding comments or accompanying opinion), they cannot possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required. . . Almost invariably, they are proper grounds for appeal, not for recusal.

Liteky v. United States, 510 U.S. 540, 555 (1994) (citing United States v. Grinnell Corp., 384 U.S. 563, 583 (1966)). The prior rulings were not evidence of bias or partiality that would support plaintiff's disqualification motion, although plaintiff is certainly entitled to disagree with them, as she does. She has taken the proper step of appealing the orders entered in her bankruptcy appeal; if the court of appeals agrees with her they were misconceived, it will reverse them.

I do not intend to grant the motion for disqualification. I have no personal bias toward plaintiff or the facts she is alleging in this lawsuit. My previous ruling had to do with her request for an extension that I believed could not be granted without adversely affecting the interests of the other party to the appeal. I was merely performing the judicial task of determining where to balance the rights of parties to a lawsuit. In plaintiff's case, I decided that defendant's right to a resolution of a long dispute outweighed plaintiff's difficulties in filing her brief in opposition; plaintiff had been given lengthy extensions of time in which to file her opposition brief and had not shown any likelihood that she would be able to file the brief in any reasonable period of time, even if she were granted additional extensions of time.

ORDER

IT IS ORDERED that plaintiff Wendy Alison Nora's motion to disqualify me from proceeding in this matter under 28 U.S.C. § 405(a) and (b) is DENIED.

Entered this 15th day of December, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge