

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 06-3974

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IN RE: JOSEPH JARVIS,  
Petitioner

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Petition for Writ of Mandamus from the  
United States District Court for the District of New Jersey  
(Related to D.N.J. Civil No. 04-cv-00055)

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Submitted Under Rule 21, Fed. R. App. Pro.  
October 5, 2006

Before: RENDELL, AMBRO and ROTH, Circuit Judges.

(Filed November 21, 2006)

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OPINION OF THE COURT

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PER CURIAM

Joseph Jarvis petitions for a writ of mandamus requiring Magistrate Judge Madeline C. Alreo of the United States District Court for the District of New Jersey to recuse herself from the underlying action.

Jarvis alleges judicial misconduct based on the Magistrate Judge's harsh words towards Jarvis's former attorney, failure to notify Jarvis of schedule changes in the case, and unjustified rulings in favor of the opposing party. He also contends that the

Judge is being influenced by a retired Federal District Judge who is the father of one of the opposing party's attorneys and associated with that attorney's law firm. The Magistrate Judge denied Jarvis's motion for recusal on September 18, 2006.

We exercise jurisdiction under 28 U.S.C. § 1651(a) and review the Magistrate Judge's decision not to recuse for abuse of discretion. See In re Kensington Int'l, Ltd., 368 F.3d 289, 300-301 (3d Cir. 2004) (abuse of discretion standard applies when the district court rules on a motion to recuse after a petition for writ of mandamus is filed in the Court of Appeals). Under 28 U.S.C. § 455(a), a Magistrate Judge must "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Disqualification under § 455(a) is required if "a reasonable person, with knowledge of all the facts, would conclude that the judge's impartiality might reasonably be questioned." In re Kensington Int'l, 353 F.3d at 301. While actual bias need not be shown, id. at 302, "a movant must supply some objective facts that support his position, not mere speculation." See U.S. v. Martorano, 866 F.2d 62, 68 (3d Cir. 1989).

Absent extraordinary circumstances, "beliefs or opinions which merit recusal must involve an extrajudicial factor" beyond what has occurred in the proceedings. Selkridge v. United of Omaha Life Ins. Co., 360 F.3d 155, 167 (3d Cir. 2004) (citation omitted). Petitioner has failed to allege any objective facts that could support a finding that there were extrajudicial factors creating the appearance of impartiality. His allegations regarding the Magistrate Judge's ex parte contact with opposing counsel's father are mere speculation. See Martorano, 866 at 68. Likewise,

nothing about the Magistrate Judge's alleged handling of motions, petitioner's telephone calls, or the court appearances of his former attorney is extreme enough to support a claim of bias or partiality. See Securacomm Consulting, Inc. v. Securacom, Inc., 224 F.3d 273, 278 (3d Cir. 2000). If petitioner disagrees with the Magistrate Judge's rulings, he may appeal them at the appropriate time. See In re Briscoe, 448 F.3d 201, 211 (3d Cir. 2006) (citations omitted).

For the foregoing reasons, the petition for a writ of mandamus will be denied.