

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

OCT 25 2019

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JOHN GARRETT SMITH,

Petitioner-Appellant,

v.

RONALD HAYES,

Respondent-Appellee.

No. 19-35833

D.C. No.

3:19-cv-05394-RBL-DWC

Western District of Washington,  
Tacoma

ORDER

Before: SILVERMAN, W. FLETCHER, and RAWLINSON, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable.

*See* 28 U.S.C. § 1291; *see also* *In re San Vicente Med. Partners Ltd.*, 865 F.2d 1128, 1131 (9th Cir. 1989) (order) (magistrate judge order not final or appealable).

Consequently, this appeal is dismissed for lack of jurisdiction.

**DISMISSED.**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## JOHN GARRETT SMITH,

Petitioner,

V.

RON HAYNES,

**Respondent.**

CASE NO. 3:19-CV-05394-RBL-DWC

## ORDER

This matter comes before the Court on Petitioner John Garrett Smith's Motion requesting the Court direct Respondent Ron Haynes' counsel to recuse themselves ("Motion to Recuse") and Respondent's Motion for Extension of Time to File Answer ("Motion for Extension"). Dkt.10, 13. After review of the relevant record, the Motion to Recuse (Dkt. 10) is denied and the Motion for Extension (Dkt. 13) is granted.

**I. Motion to Recuse (Dkt. 10)**

Petitioner filed the Motion to Recuse requesting the Court deny attorney appearances from Robert Ferguson, Washington State Attorney General, and Paul Weisser, Senior Counsel at the Attorney General's Office and not let them participate in this case. Dkt. 10. Petitioner asserts

1 Mr. Ferguson and Mr. Weisser have conflicts of interest because Petitioner has pending lawsuits  
2 against them. *Id.* Petitioner has not shown filing a lawsuit against opposing counsel is grounds  
3 for this Court to find opposing counsel has a conflict of interest and may not participate as  
4 counsel for the opposing party in a case. Therefore, Petitioner's Motion to Recuse (Dkt. 10) is  
5 denied with prejudice.

6 **II. Motion for Extension (Dkt. 13)**

7 On September 5, 2019, Respondent file the Motion for Extension. Dkt. 13. Respondent's  
8 counsel requests a ten-day extension of time to answer the Petition because he recently received  
9 the state court records and needs additional time to review the records for submission to this  
10 Court. *Id.* After review of Respondent's Motion for Extension, the Motion for Extension (Dkt.  
11 13) is granted. Respondent shall have up to and including September 20, 2019 to file an answer  
12 to the Petition.

13 Dated this 11th day of September, 2019.

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16 David W. Christel  
United States Magistrate Judge

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**Additional material  
from this filing is  
available in the  
Clerk's Office.**