

# APPENDIX A

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

FEB 27 2020

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

IMMANUEL F. SANCHEZ,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA; et al.,

Defendants-Appellees.

No. 19-56502

D.C. No.

2:19-cv-09084-ODW-AFM

Central District of California,  
Los Angeles

ORDER

Before: CANBY, GOULD, and WATFORD, Circuit Judges.

Upon a review of the record and the responses to the court's January 7, 2020 order, we conclude this appeal is frivolous. We therefore deny appellant's motions to proceed in forma pauperis (Docket Entry Nos. 2, 5), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

**DISMISSED.**

## **APPENDIX B**

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

IMMANUEL F. SANCHEZ,  v.  STATE OF CALIFORNIA, ET AL.,	PLAINTIFF(S)  DEFENDANT(S)	CASE NUMBER  2:19-cv-09084-ODW-AFM
		<b>ORDER RE REQUEST TO PROCEED IN FORMA PAUPERIS</b>

**IT IS ORDERED** that the Request to Proceed *In Forma Pauperis* is hereby GRANTED.

Date

United States Magistrate Judge

**IT IS RECOMMENDED** that the Request to Proceed *In Forma Pauperis* be **DENIED** for the following reason(s):

<input type="checkbox"/> Inadequate showing of indigency	<input checked="" type="checkbox"/> District Court lacks jurisdiction
<input type="checkbox"/> Legally and/or factually patently frivolous	<input type="checkbox"/> Immunity as to _____
<input checked="" type="checkbox"/> Other: <u>Fails to state a federal claim on which relief may be granted</u>	

Comments:

See proposed order submitted herewith.

11/14/2019

Date

United States Magistrate Judge



**IT IS ORDERED** that the Request to Proceed *In Forma Pauperis* is hereby:

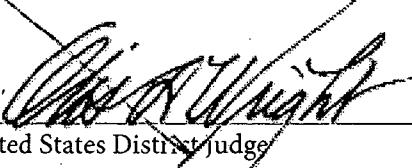
GRANTED  
 DENIED (see comments above). IT IS FURTHER ORDERED that:

Plaintiff SHALL PAY THE FILING FEES IN FULL within 30 days or this case will be dismissed.  
 This case is hereby DISMISSED immediately.  
 This case is hereby REMANDED to state court.

November 15, 2019

Date

United States District Judge



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

Case No. 2:19-cv-09084-ODW-AFM

**ORDER (1) DENYING REQUEST TO  
PROCEED *IN FORMA PAUPERIS*  
AND (2) DISMISSING COMPLAINT  
FOR LACK OF SUBJECT MATTER  
JURISDICTION**

17 Plaintiff filed this *pro se* civil rights action on October 22, 2019, and he seeks  
18 leave to proceed *in forma pauperis* (“IFP”). Plaintiff previously filed a civil rights  
19 action, case no. 2:18-cv-06107-R-AFM (“case 18-cv-06107”), against most of the  
20 same defendants, and the prior case raised essentially the same claims as asserted  
21 here. Plaintiff also sought leave to proceed IFP in case 18-cv-06107. Plaintiff’s IFP  
22 request in the prior case was denied, and that case was dismissed for lack of subject  
23 matter jurisdiction. (18-cv-06107, ECF No. 8.) Plaintiff filed an appeal in the prior  
24 case. (18-cv-06107, ECF Nos. 9-10, 16.) On May 29, 2019, the Ninth Circuit  
25 concluded that plaintiff’s appeal was frivolous, denied his IFP motion, and dismissed  
26 plaintiff’s appeal of the earlier action pursuant to 28 U.S.C. § 1915(e)(2). (18-cv-  
27 06107, ECF No. 19.)

28

1       In the present case, the Court has screened the Complaint to determine whether  
2 it is frivolous or malicious; fails to state a claim on which relief may be granted; or  
3 seeks monetary relief against a defendant who is immune from such relief. *See* 28  
4 U.S.C. § 1915(e)(2)(B). Section 1915(e)(2) pertains to any civil action by a litigant  
5 who is seeking to proceed *in forma pauperis*. *See, e.g., Shirley v. Univ. of Idaho*, 800  
6 F.3d 1193, 1194 (9th Cir. 2015). In screening the Complaint to determine whether  
7 plaintiff's pleading states a claim on which relief may be granted, the Court  
8 "discount[s] conclusory statements, which are not entitled to the presumption of  
9 truth, before determining whether a claim is plausible." *Salameh v. Tarsadia Hotel*,  
10 726 F.3d 1124, 1129 (9th Cir. 2013); *see also Rosati v. Igbinoso*, 791 F.3d 1037,  
11 1039 (9th Cir. 2015) (in determining whether a complaint should be dismissed under  
12 28 U.S.C. §1915(e)(2)(B), courts apply the standard of Fed. R. Civ. P. 12(b)(6)).

13       In his current Complaint, plaintiff has primarily reorganized and reworded the  
14 same claims from the earlier action that have been dismissed.<sup>1</sup> Plaintiff again  
15 contends that he was wrongfully denied medical care under state law. He again  
16 names as defendants the State of California and the state Department of Social  
17 Services, as well as individuals and entities that appear to be private health care  
18 providers. Once again, plaintiff's Complaint lacks an arguable basis in either fact or  
19 law to raise a federal civil rights claim. *See Denton v. Hernandez*, 504 U.S. 25, 31-  
20 33 (1992); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). And again, plaintiff's  
21 factual allegations fall far short of raising a purported right to relief on any federal  
22 claim beyond the speculative level. *See Bell Atlantic Corp. v. Twombly*, 550 U.S.  
23 544, 555 (2007).

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25       <sup>1</sup> Plaintiff purports to characterize this case as "reinstated or reopened," despite dismissal of the  
26 prior case and affirmance by the Court of Appeals. (ECF No. 1-1 at 1.) Plaintiff's current  
27 Complaint includes factual allegations beginning in February 2007 (ECF No. 1 at 13) and  
28 continuing into 2019 (*id.* at 19). The additional factual allegations concerning events after the  
earlier action also pertain to medical treatment by private entities and individuals or allegedly  
"fraudulent statements" about plaintiff's medical care under state law (*see, e.g., id.* at 19, 21-22,  
24-25, 35, 72). Such allegations do not alter the Court's analysis of plaintiff's claims.

1 Plaintiff again names as defendants, *inter alia*, the State of California, the  
2 California Department of Social Services, and the director of that state department in  
3 his official capacity. (*Id.* at 5-6.) The Eleventh Amendment bars federal jurisdiction  
4 over suits by individuals against a State and its instrumentalities or agencies, unless  
5 either the State consents to waive its sovereign immunity or Congress abrogates it.  
6 *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 99-100 (1984). In  
7 addition, “the eleventh amendment bars actions against state officers sued in their  
8 official capacities for past alleged misconduct involving a complainant’s federally  
9 protected rights, where the nature of the relief sought is retroactive, i.e., money  
10 damages.” *Bair v. Krug*, 853 F.2d 672, 675 (9th Cir. 1988). To overcome this  
11 Eleventh Amendment bar, the State’s consent or Congress’ intent must be  
12 “unequivocally expressed.” *Pennhurst*, 465 U.S. at 99. While California has  
13 consented to be sued in its own courts pursuant to the California Tort Claims Act,  
14 such consent does not constitute consent to suit in federal court. *See BV Engineering*  
15 v. *Univ. of Calif., Los Angeles*, 858 F.2d 1394, 1396 (9th Cir. 1988). Finally,  
16 Congress has not repealed state sovereign immunity against suits brought under 42  
17 U.S.C. § 1983. Accordingly, the Court does not have jurisdiction over plaintiff’s  
18 claims against California, its agencies, or its instrumentalities.

19 Just as in case no. 18-cv-06107, plaintiff also names as defendants many  
20 individuals and entities that appear to be private health care providers. However, to  
21 “state a claim under § 1983, a plaintiff must allege the violation of a right secured by  
22 the Constitution and laws of the United States, and [he] must show that the alleged  
23 deprivation was committed by a person acting under color of state law.” *West v.*  
24 *Atkins*, 487 U.S. 42, 48 (1988). The “under-color-of-state-law” requirement  
25 “excludes” from the reach of § 1983 all “merely private conduct, no matter how  
26 discriminatory or wrongful.” *American Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40,  
27 50 (1999) (internal quotation marks omitted). The Complaint largely alleges that  
28 private entities or individuals failed to provide adequate health care to plaintiff over

1 more than ten years. Accepting reimbursements from the Medi-Cal program or  
2 accepting other government funds does not create a contract to provide health care to  
3 plaintiff that could plausibly give rise to a federal constitutional claim. *See, e.g.*,  
4 *Marquez v. Dep't of Health Care Services*, 240 Cal. App. 4th 87, 93-94 (2015) (the  
5 “Medi-Cal program does not directly provide services” but, rather, reimburses health  
6 care providers for services). Similarly, to the extent that plaintiff again names  
7 employees of the University of Southern California as defendants (*see, e.g.*, ECF No.  
8 1 at 10-11), employees of a private university are not acting under color of state law.  
9 Nothing in the Complaint plausibly suggests that any of the private defendants or  
10 private entities engaged in state action under color of state law. Plaintiff’s factual  
11 allegations appear, at most, to give rise to claims under state law such as medical  
12 malpractice, negligence, or fraud. *See, e.g.*, *DeGrassi v. City of Glendora*, 207 F.3d  
13 636, 647 (9th Cir. 2000) (a “bare allegation” that a private person acted jointly with  
14 state officials is insufficient to show such defendant acted under color of state law as  
15 required to state a claim under § 1983).

16 Plaintiff also again names as a defendant the County of Los Angeles  
17 (“County”). (ECF No. 1 at 6.) A local government entity such as the County “may  
18 not be sued under § 1983 for an injury inflicted solely by its employees or agents.  
19 Instead, it is when execution of a government’s policy or custom, whether made by  
20 its lawmakers or by those whose edicts or acts may fairly be said to represent official  
21 policy, inflicts the injury that the government as an entity is responsible under  
22 § 1983.” *Monell v. Dep't of Social Servs. of City of New York*, 436 U.S. 658, 694  
23 (1978). Here, the Complaint fails to set forth any factual allegations that a specific  
24 policy or custom promulgated by the County was the “actionable cause” of a specific  
25 constitutional violation. *See Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1146 (9th  
26 Cir. 2012). Further, “[g]overnment officials may not be held liable for the  
27 unconstitutional conduct of their subordinates under a theory of respondeat superior.”  
28 *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009). Accordingly, to state a federal civil

1 rights claim against a state or local government official, plaintiff must allege that  
2 each such defendant “through the official’s own individual actions, has violated the  
3 Constitution.” *Id.* at 676-77. Plaintiff’s Complaint fails to state any factual  
4 allegations showing such individual actions.

5 Plaintiff appears to attempt to assert a claim for conspiracy pursuant to Section  
6 1983. (*Id.* at 31.) However, he fails to allege any facts showing that any specific  
7 state actors had a “meeting of the minds” at a particular time to deprive him of a  
8 federally protected right, and his conclusory allegations fail to give rise to a plausible  
9 federal claim. *See, e.g., Crowe v. County of San Diego*, 608 F.3d 406, 440 (9th Cir.  
10 2010) (to prove a conspiracy under §1983, “plaintiff must ‘demonstrate the existence  
11 of an agreement or meeting of the minds’ to violate constitutional rights”). Further,  
12 neither the Fourteenth Amendment nor any other part of the United States  
13 Constitution protects a “fundamental right to health care.” (ECF No. 1 at 29.)  
14 Plaintiff’s reliance on *Brown v. Plata*, 563 U.S. 493, 510-11 (2011) (ECF No. 1 at  
15 40, 55), is misplaced because that case addresses access to health care within a state  
16 prison system, but plaintiff is not alleging any deprivation of health care while  
17 incarcerated.

18 Plaintiff further claims that the State “invidiously discriminate[s] against  
19 plaintiff because of his poverty” or “economic disability,” but this simply does not  
20 give rise to a claim under the Fourteenth Amendment. (ECF No. 1 at 47, 66.) It is  
21 clear that discrimination on the basis of indigency does not give rise to a federal equal  
22 protection claim. *See, e.g., Harris v. McRae*, 448 U.S. 297, 323 (1980) (the Supreme  
23 Court has repeatedly held “that poverty, standing alone, is not a suspect  
24 classification” under the Equal Protection Clause).

25 To the extent that plaintiff purports to raise a claim under the Racketeering  
26 Influenced and Corrupt Organizations Act (“RICO”) (ECF No. 1 at 3, 68, 71-75),  
27 that statute requires specific factual allegations that specific defendants engaged in  
28 crimes that are defined to constitute racketeering activity and that the alleged conduct

1 directly and proximately caused plaintiff's alleged injury. *See Resolution Trust Corp.*  
2 *v. Keating*, 186 F.3d 1110, 1117 (9th Cir. 1999); *Oscar v. University Students Co-*  
3 *op. Ass'n*, 965 F.2d 783, 786 (9th Cir. 1992) (en banc) (Congress enacted RICO "to  
4 combat organized crime"), *abrogated on other grounds by Diaz v. Gates*, 420 F.3d  
5 897 (9th Cir. 2005); 18 U.S.C. §1961(1) (setting forth the only crimes that may  
6 constitute racketeering activity). Plaintiff's Complaint alleges nothing that  
7 constitutes racketeering activity.

8 Finally, plaintiff's purported First Amendment claim for "right to privacy of  
9 mind" is frivolous because it purports to arise from an alleged practice of the State to  
10 use "mind control" and "mind control rooms" on "Medi-Cal beneficiaries." (ECF  
11 No. 1 at 36-37, 58-59.) Such allegations "rise to the level of the irrational or the  
12 wholly incredible." *Denton*, 504 U.S. at 32-33.<sup>2</sup>

13 For these reasons, plaintiff's factual allegations lack an arguable basis in fact  
14 or law to assert a federal civil rights claim against the named defendants. Federal  
15 courts are courts of limited jurisdiction and have subject matter jurisdiction only over  
16 matters authorized by the Constitution and Congress. *See, e.g., Kokkonen v.*  
17 *Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). It is this Court's duty to examine  
18 its own subject matter jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514  
19 (2006), and the Court may dismiss a case summarily if there is an obvious  
20 jurisdictional issue. *See Scholastic Entm't, Inc. v. Fox Entm't Grp., Inc.*, 336 F.3d  
21 982, 985 (9th Cir. 2003). "Absent a substantial federal question," a district court  
22 lacks subject matter jurisdiction, and claims that are "wholly insubstantial" or  
23 "obviously frivolous" are insufficient to "raise a substantial federal question for

24  
25 <sup>2</sup> The Complaint also references "deliberate indifference" (see, e.g., ECF No. 1 at 26, 32, 38, 43),  
26 apparently attempting to raise an Eighth Amendment claim for deliberate indifference to a serious  
27 medical need. But the Eighth Amendment only applies to medical services in a prison context.  
28 Plaintiff does not appear to have been a prison inmate at any relevant time. *See, e.g., Bell v. Wolfish*,  
441 U.S. 520, 535 n.16 (1979) ("Eighth Amendment scrutiny is appropriate only after the State has  
complied with the constitutional guarantees traditionally associated with criminal prosecutions").

1 jurisdictional purposes.” *Shapiro v. McManus*, 136 S. Ct. 450, 455-56 (2015).

2 As discussed above, plaintiff’s factual allegations here fail to plausibly allege  
3 that any named defendant acted under color of state law to deprive him of a right  
4 guaranteed under the United States Constitution or a federal statute. Accordingly,  
5 the Court lacks subject matter jurisdiction over the claims in this action.

6 **IT THEREFORE IS ORDERED** that the Request to Proceed *In Forma*  
7 *Pauperis* is denied, and the Complaint in this action is dismissed without prejudice.

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9 DATED: November 15, 2019

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12 OTIS D. WRIGHT, II  
13 UNITED STATES DISTRICT JUDGE

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## APPENDIX C

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to:

District Judge John F. Walter  
Magistrate Judge Alka Sagar

The case number on all documents filed with the Court should read as follows:

2:19-cv-09084-JFW (ASx)

District judges in the Central District of California refer all discovery-related motions to the assigned magistrate judge pursuant to General Order No. 05-07. Discovery-related motions should be noticed for hearing before the assigned magistrate judge. Please refer to the assigned judges' Procedures and Schedules, available on the Court's website at [www.cacd.uscourts.gov/judges-requirements](http://www.cacd.uscourts.gov/judges-requirements), for additional information.

Clerk, U.S. District Court

October 22, 2019  
Date

By /s/ Estrella Tamayo  
Deputy Clerk

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**ATTENTION**

*The party that filed the case-initiating document in this case (for example, the complaint or the notice of removal) must serve a copy of this Notice on all parties served with the case-initiating document. In addition, if the case-initiating document in this case was electronically filed, the party that filed it must, upon receipt of this Notice, promptly deliver mandatory chambers copies of all previously filed documents to the newly assigned-district judge. See L.R. 5-4.5. A copy of this Notice should be attached to the first page of the mandatory chambers copy of the case-initiating document.*

## APPENDIX D

MIME-Version:1.0 From:cacd\_ecfmail@cacd.uscourts.gov To:ecfnef@cacd.uscourts.gov  
Message-Id:<28662702@cacd.uscourts.gov>Subject:Activity in Case 2:19-cv-09084-JFW-AS  
Immanuel F. Sanchez v. State of California et al:Text Only Scheduling Notice Content-Type: text/html

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**Notice of Electronic Filing**

The following transaction was entered on 10/28/2019 at 9:39 AM PDT and filed on 10/28/2019

**Case Name:** Immanuel F. Sanchez v. State of California et al

**Case Number:** 2:19-cv-09084-JFW-AS

**Filer:**

**Document Number:** 7(No document attached)

**Docket Text:**

**Text Entry Order vacating hearing and referring Motion to Commence Suit In Forma Pauperis [2] to Magistrate Judge Alka Sagar for report and recommendation. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (sr) TEXT ONLY ENTRY**

**2:19-cv-09084-JFW-AS Notice has been electronically mailed to:**

**2:19-cv-09084-JFW-AS Notice has been delivered by First Class U. S. Mail or by other means**

**BY THE FILER to :**

Immanuel F. Sanchez  
1345 North Watland Avenue  
Los Angeles, CA 90063

## **APPENDIX E**

United States District Court  
For the Central District of California

11 || IMMANUEL F. SANCHEZ ) CV 2:19-09084 ODW (AFMx)

12 Plaintiff,

Plaintiff,

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31. GENE OWN

CV 2:19-09084 ODW (AFMx)

**ORDER DENYING PETITIONER'S  
MOTION FOR RECUSAL OF CURRENT  
MAGISTRATE JUDGE AND  
REASSIGNMENT TO A DIFFERENT  
JUDGE [12]; AND ORDER TO SHOW  
CAUSE WHY SANCTIONS SHOULD NOT  
BE IMPOSED AGAINST PLAINTIFF FOR  
RULE 11(B) VIOLATION.**

## I. BACKGROUND

19 On October 22, 1019 Plaintiff filed an 80 page Complaint - not counting  
20 approximately 50 pages of exhibits of miscellaneous paperwork. The Complaint charges  
21 violation of civil rights under 42 U.S.C. §1983 and RICO under 18 U.S.C. §§1961 et seq.  
22 It would appear that Sanchez is displeased with the quality of medical and dental care  
23 he has received, gratis, through the California Department of Corrections and  
24 Rehabilitation. He had previously filed a similar suit in the matter styled *Immanuel F.*  
25 *Sanchez v. State of California*, Case No. 2:18-cv-06107- R-AFM. That case was dismissed  
26 for lack of subject matter jurisdiction. The dismissal was affirmed on appeal. [18-cv-  
27

1 06107, ECF-19]. The instant case appears to be an attempted end-run around that  
2 previously dismissed case. However, this case too will be dismissed for the same  
3 reasons.

5 But to the point of the instant motion: Sanchez seeks to disqualify the magistrate  
6 judge assigned to this case, Alexander F. MacKinnon. [ECF-12]. While not a model of  
7 clarity nor specificity, it appears that Sanchez believes that Magistrate Judge MacKinnon  
8 is biased against him as evidenced by rulings Judge MacKinnon has made. Sanchez does  
9 not state the source of the bias. Indeed, the accompanying “affidavit of bias and  
10 prejudice” states that Magistrate Judge MacKinnon “has a personal ‘bias and prejudice’  
11 against [him] and in favor of the government . . . . (Mot. P.7.) We are left to guess the  
12 source of this alleged bias. In point of fact, this is merely an academic exercise because  
13 this case will be dismissed and the issue of which magistrate judge is assigned to handle  
14 discovery issues is, for all practical purposes, moot.

17 No fewer than five times in his affidavit Sanchez complains of bias on the part of  
18 Magistrate Judge MacKinnon. He generally demonstrates the existence of said bias by  
19 virtue of Judge MacKinnon having made rulings adverse to him. Included within those  
20 rulings were denials of requests to proceed *in forma pauperis*. It is important to note  
21 that on May 29, 2019 the Ninth Circuit held Sanchez's appeal was frivolous, denied his  
22 IFP motion and dismissed his appeal of the 18-cv-06107-R action pursuant to 28 U.S.C.  
23 §1915(e)(2). (See 18-cv-06107, ECF-19)

## II. LEGAL STANDARD

26 There are two federal statutes enacted to assure that litigants receive a fair trial

1 before an impartial judge. Sanchez brings his claim under one of them: 28 U.S.C. § 144  
2 (Mot. 10) which provides: "Whenever a party to any proceeding in a district court  
3 makes and files a timely and sufficient affidavit that the judge before whom the matter  
4 is pending has a personal bias or prejudice either against him or in favor of any adverse  
5 party, such judge shall proceed no further therein, but another judge shall be assigned  
6 to hear such proceeding."

7       *"The affidavit shall state the facts and the reasons for the belief that bias or  
8 prejudice exists, and shall be filed not less than ten days before the beginning of the  
9 term at which the proceeding is to be heard, or good cause shall be shown for failure  
10 to file it within such time. A party may file only one such affidavit in any case. It shall be  
11 accompanied by a certificate of counsel of record stating that it is made in good faith."*

12 Emphasis added. The Motion is timely filed and contains an affidavit attesting to the  
13 good faith motivation for bringing the motion. While the motion may pass procedural  
14 muster, it is highly questionable whether the motion is made in good faith. In addition,  
15 the motion is woefully lacking in the area of "facts".

16       **A.     Judicial Rulings Are Almost Never a Basis for Finding Bias.**

17       The Motion to Disqualify states: [t]his motion will be made on the following  
18 grounds: (1) that the judicial rulings of the magistrate judge constitute "pervasive bias  
19 and prejudice."

20       **1.     On the Merits, There is No Basis For Recusal.**

21       Since at least 1966 it has been the law that any claim that a judge is biased or  
22 prejudiced against a party, must come from some extrajudicial source and result in an  
23

1 opinion on the merits on some basis other than what the judge learned from his  
2 participation in the case. *United States v. Grinnell*, 384 U.S. 563, 583; 86 S. St. 1698  
3 (1966)

5 As noted above, the instant request appears to have been prompted by an  
6 unfavorable ruling by the magistrate judge. Mere dissatisfaction with a ruling of the  
7 judge is not a valid basis for recusal. Adverse decisions do not establish bias or even  
8 hint at bias. *Khor Chin Lim v. Courtcall Inc.*, 683 F.3d 378, 380 (7th Cir. 2012) (per  
9 Easterbrook, J.).

12 Section 144 expressly requires a showing a bias or prejudice by the trial judge  
13 against either the attorney or his client. Petitioner has not even attempted to articulate  
14 the basis for his belief that Judge MacKinnon harbors a bias against him. Instead, his  
15 complaint is anchored solely on his disagreement with the judge's rulings. This is  
16 insufficient.

19 The law is clear, a request for disqualification of a judge must rest upon the judge  
20 having acquired extrajudicial information which has caused the judge to disfavor the  
21 movant. While courts, including this court, are generally forgiving in terms of requiring  
22 strict compliance with Section 144, the fact remains that Sanchez is still required to state  
23 facts supporting his belief that bias exists. Those assertions must be definite as to the  
24 time, place, persons, and circumstances. *[Mims v. Shapp*, 541 F.2d 415, 417 (3d Cir.  
25  
26  
27  
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1 1976) bias defined] Mere conclusory allegations will not suffice. The facts stated "must  
2 give fair support to the charge of a bent of mind that may prevent or impede impartiality  
3 of judgment." Thus, courts have been rigorous in requiring a showing of personal bias  
4 as contrasted with general or judicial bias.

5

### 6 III. IMPROPER CONDUCT ON THE PART OF PETITIONER

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8 However, the court is concerned with a much more serious problem than the lack  
9 of facts to support the assertion of bias. The Court is concerned with a situation that  
10 directly implicates FEDERAL RULES OF CIVIL PROCEDURE, Rule 11, which provides in pertinent  
11 part:.

12 (a) **Signature.** Every pleading, written motion, and other paper must be signed  
13 by . . . a party personally if the party is unrepresented. The paper must state the  
14 signer's address, e-mail address, and telephone number. Unless a rule or statute  
15 specifically states otherwise, a pleading need not be verified or accompanied by  
16 an affidavit. The court must strike an unsigned paper unless the omission is  
17 promptly corrected after being called to the attorney's or party's attention.

18 (b) **Representations to the Court.** By presenting to the court a pleading, written  
19 motion, or other paper—whether by signing, filing, submitting, or later  
20 advocating it—an attorney or unrepresented party certifies that to the best of  
21 the person's knowledge, information, and belief, formed after an inquiry

1 reasonable under the circumstances:

2 (1) it is not being presented for any improper purpose, such as to harass,  
3 cause unnecessary delay, or needlessly increase the cost of litigation;

4 (2) the claims, defenses, and other legal contentions are warranted by  
5 existing law or by a nonfrivolous argument for extending, modifying, or  
6 reversing existing law or for establishing new law;

7 (3) the factual contentions have evidentiary support or, if specifically so  
8 identified, will likely have evidentiary support after a reasonable  
9 opportunity for further investigation or discovery; and

10 (4) the denials of factual contentions are warranted on the evidence or, if  
11 specifically so identified, are reasonably based on belief or a lack of  
12 information.

13 (c) **Sanctions.**

14 (1) In General. If, after notice and a reasonable opportunity to respond, the  
15 court determines that Rule 11(b) has been violated, the court may impose  
16 an appropriate sanction on any attorney, law firm, or party that violated the  
17 rule or is responsible for the violation. Absent exceptional circumstances,  
18 a law firm must be held jointly responsible for a violation committed by its  
19 partner, associate, or employee.

**(3) On the Court's Initiative.** On its own, the court may order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

#### **IV. CONDUCT TO BE ADDRESSED IN THE ORDER TO SHOW CAUSE**

As noted above, the motion for disqualification appears to rest solely on Plaintiff's dissatisfaction with the Court's rulings against him. As noted earlier, this is rarely a basis for disqualification. However, Plaintiff has cited in his papers a lengthy passage from a Supreme Court decision, which according to Plaintiff, holds just the opposite. That case is *Liteky v. United States*. Below, we quote the language in Plaintiff's motion. The content underlined are portions of the actual decision which plaintiff has intentionally omitted. The omitted language demonstrate that the decision holds just the opposite of what Plaintiff argues in his motion.

"In *Liteky v. United States*, 510 U.S. 540 (1994), the Supreme Court declared 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 (as discussed below) when no extrajudicial source is involved. Almost invariably, they are

1 proper grounds for appeal, not for recusal. Second, opinions formed the judge on the  
2 basis of facts introduced or events occurring in the course of the current proceedings, or  
3 of prior proceedings do not constitute a basis for a bias or partiality motion [when] unless  
4 they display a deep-seated favoritism or antagonism as to make fair judgment  
5 impossible. Thus, judicial [rulings that occurred in the prior proceedings] remarks  
6 during the course of a trial that are critical or disapproving of, or even hostile to, counsel,  
7 the parties, or that cases, ordinarily do not support a bias or partiality challenge [If]. . .  
8 . . . may do so if they reveal an opinion that derives from an extrajudicial source; and  
9 they will do so if they reveal such a high degree of favoritism or antagonism as to make  
10 a fair judgment impossible. *Id.*, at 555.”  
11  
12

13 No credible argument can be made that the alteration of the original decision was  
14 inadvertent or a mistake. This is nothing more than a deliberate and bad-faith attempt  
15 to mislead the court.  
16

17 **ORDER TO SHOW CAUSE WHY SANCHEZ SHOULD NOT BE SANCTIONS**

18 Sanchez cited the Supreme Court decision in *Liteky v. United States* as supporting  
19 the proposition that adverse rulings alone support the claim of judicial bias. Indeed, his  
20 rationale for having Judge MacKinnon reassigned is based solely on adverse rulings.  
21 Sanchez deliberately excised words from passages lifted from the decision so that it  
22 appeared to state the rule that one who receives an unfavorable ruling may argue that  
23  
24

1 the court is obviously biased. That is in fact the exact opposite of the holding of *Liteky*.  
2 The alteration of the original decision actually required some degree of attention to  
3 detail to make the deletions and still allow the passage to make sense. This was no  
4 accident. This was not done in good faith.

The Court does not pretend to understand the workings of the mind of Mr. Sanchez as to his motivation for this conduct. It is unknown if his purpose was to "harass, cause unnecessary delay, or needlessly increase the cost of litigation." What is apparent, however, is that it was done for some "improper purpose." For there is nothing proper about intentionally attempting to mislead the court by the citation to Supreme Court authority which has been materially altered. In any event, Mr. Sanchez will be given an opportunity to explain his motivation at the hearing on this Order to Show Cause set for December 20, 2019 at 1:30 in Courtroom 5-D.

18 As for the motion to Disqualify or reassign the matter from Magistrate Judge  
19 MacKinnon, the request is **DENIED**.

IT IS SO ORDERED

24 DATED: November 26, 2019

Otis D. Wright, II  
District Judge

## **APPENDIX F**

**United States District Court  
For The Central District of California**

11 IMMANUEL F. SANCHEZ } CV 2:19-09084 ODW (AFMx)  
12 Plaintiff, }  
13 v. } ORDER DENYING PLAINTIFF'  
14 THE STATE OF CALIFORNIA, } MOTION TO VACATE THE OR  
15 Defendant. } DENYING IFP STATUS [DE-19]

## BACKGROUND

17 On October 22, 1019 Plaintiff filed an 80 page Complaint - not counting  
18 approximately 50 pages of exhibits of various miscellaneous paperwork. The Complaint  
19 charges violation of civil rights under 42 U.S.C. §1983 and RICO under 18 U.S.C. §§1961  
20 et seq. It would appear that Sanchez is displeased with the quality of medical and dental  
21 care he has received from a number of private non-governmental entities.  
22

23 During the Summer of 2018 he had filed a similar suit in the matter styled  
24 *Immanuel F. Sanchez v. State of California*, Case No. 2:18-cv-06107- R-AFM. Along with  
25 the complaint, Sanchez filed a Request to Proceed in Forma Pauperis. [DE-1, 3.] Two  
26 weeks after the complaint was filed, the Court issued an Order Dismissing the Complaint  
27

1 due to a lack of subject matter jurisdiction; there was neither diversity nor a federal  
2 question. In the same order, the request to proceed without payment of filing fees was  
3 denied. [DE-8] The Order was affirmed, in its entirety, on appeal. Specifically, the  
4 Circuit Court stated “[u]pon a review of the record and response to the court’s February  
5 15, 2019 order, we conclude this appeal is frivolous. We therefore deny appellant’s  
6 motions to proceed in forma pauperis (Docket Entry Nos. 2 and 4) and dismiss this  
7 appeal as frivolous, pursuant to 28 U.S.C §1915(e)(2).” [18-cv-06107, ECF-19].

8  
9 The instant action is a re-do of case No. 06107. The same claims are raised. Like  
10 the earlier case, Plaintiff has filed a “Notice of Motion and Motion to Commence Suit *in*  
11 *forma pauperis*, with an Affidavit of Indigency. (DE-2]. This is nearly the same suit as  
12 06107 but under a new case number. This case too, will be dismissed for the same  
13 reasons. [See DE-17]

14  
15 But to the point: Sanchez complains about the denial of his request to proceed  
16 in this action *in forma pauperis*. In case number 6107 there were denials of requests  
17 to proceed *in forma pauperis*. It is important to note that on May 29, 2019 the Ninth  
18 Circuit held Sanchez’s appeal was frivolous, denied his IFP motion and dismissed his  
19 appeal of the 18-cv-06107-R action pursuant to 28 U.S.C §1915(e)(2). (See 18-cv-06107,  
20 ECF-19). Case number 6107 is essentially the same case as the instant matter. For all  
21 practical purposes, the Court of Appeals has affirmed the district court’s conclusion that  
22 there is no federal court subject matter jurisdiction, and pursuant to 28 U.S.C  
23 §1915(e)(2) the matter was properly dismissed. That ruling is essentially law of the case.

24  
25 To the extent Sanchez wishes to relitigate the 6107 case, especially the issue of

1 obtaining a waiver of the filing fee requirement, those wishes will go unfulfilled. The  
2 case remains one which is outside the jurisdiction of federal courts. The fee waiver issue  
3 is not considered in the abstract, but is anchored to a case. Here, there is no case.  
4 Without a case, the question of filing fees and waivers is meaningless. That is where the  
5 Plaintiff finds himself. If he is in fact on general relief, he would be entitled to a waiver  
6 of fees and costs in connection with litigation in which he is a party. However, there is  
7 no case. Therefore the issue of filing fees is moot. Plaintiff's request for an order  
8 vacating the order of Judge Walter is DENIED<sup>1</sup>. The docket does not reflect an order from  
9 Judge Walter on October 28, 2019. In any event, this case has been dismissed. (See  
10 Order dated November 15, 2019 again denying the request to proceed in forma  
11 pauperis, and dismissing the case due to lack of subject matter jurisdiction. [DE-17.]

14 **Plaintiff Immanuel F. Sanchez is ordered to make no further filings in this  
15 closed case.**

16 **IT IS SO ORDERED**

19  
20 DATED: December 4, 2019

21  
22   
23 Otis D. Wright, II  
24  
25

26  
27  
28

1. Plaintiff identifies the order to be vacated as simply the order of Judge John F. Walter entered  
October 28, 2019, presumably denying Plaintiff's IFP request. In fact, the only order from Judge Walter  
on that date was the referral to the Magistrate Judge Sagar for her recommendation. However, before  
Judge Sagar had time to offer her recommendation, the case was transferred to this Court

## APPENDIX G

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
**CIVIL MINUTES - GENERAL**

Case No. CV 19-09084-ODW(AFMx) Date December 20, 2019

Title Immanuel F. Sanchez v. State of California et al

Present: The Honorable Otis D. Wright II, United States District Judge

Sheila English C/S: 12-20-19 N/A

Deputy Clerk Court Reporter / Recorder Tape No.

Attorneys Present for Plaintiffs: Immanuel F. Sanchez- Pro Se Attorneys Present for Defendants:

N/A

**Proceedings : ORDER TO SHOW CAUSE**

Case called, appearance by single appearing party, in pro se. Court first takes up the request for judicial notice and rules. The Court then attempted to explain to Sanchez why his heavily ellipsed quote of a Supreme Court decision was misleading and wholly inaccurate in several places. Sanchez refused to recognize that filing misleading paper runs afoul of Rule 11. No good cause was shown as to why his conduct should not be sanctioned. He became verbally abusive and the hearing was terminated.

Sanchez sanctioned in the amount of \$1,000, payable within 30 days.

IT IS SO ORDERED.

13

Initials of  
Preparer SE

## **APPENDIX H**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

IMMANUEL F. SANCHEZ,

CASE NUMBER:

2:19-cv-09084-ODW-AFM

PLAINTIFF(S),

v.

STATE OF CALIFORNIA, ET AL.,

ORDER ON MOTION FOR LEAVE TO APPEAL IN  
FORMA PAUPERIS:

28 U.S.C. 753(f)

28 U.S.C. 1915

DEFENDANT(S).

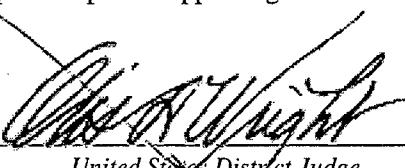
The Court, having reviewed the Motion for Leave to Appeal In Forma Pauperis and Affidavit thereto, hereby ORDERS: (The check mark in the appropriate box indicates the Order made.)

The court has considered the motion and the motion is DENIED. The Court certifies that the proposed appeal is not taken in good faith under 28 U.S.C. 1915(a) and is frivolous, without merit and does not present a substantial question within the meaning of 28 U.S.C. 753(f).

The Clerk is directed to serve copies of this Order, by United States mail, upon the parties appearing in this cause.

January 2, 2020

Date



United States District Judge

The Court has considered the motion and the motion is GRANTED. It appears to the Court that the proposed appeal is taken in good faith within the meaning of 28 U.S.C. 1915(a). The Court certifies that the proposed appeal is not frivolous, that it presents a substantial question. The within moving party is authorized to prosecute an appeal in forma pauperis to the United States Court of Appeals for the Ninth Circuit without pre-payment of any fees or costs and without giving security therefor.

A transcript is needed to decide the issue presented by the proposed appeal, all within the meaning of 28 U.S.C. 753 (f). The Court Reporter is directed to prepare and file with the Clerk of this Court an original and one copy of a transcript of all proceedings had in this Court in this cause; the attorney for the appellant is advised that a copy of the transcript will be made available. The expense of such transcript shall be paid by the United States pursuant to 28 U.S.C. 1915(c) and 753(f).

The Clerk is directed to serve copies of this Order upon the parties appearing in this cause.

Date

United States District Judge

## **APPENDIX I**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

SEP 16 2020

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

IMMANUEL F. SANCHEZ,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA; et al.,

Defendants-Appellees.

No. 19-56502

D.C. No.  
2:19-cv-09084-ODW-AFM  
Central District of California,  
Los Angeles

ORDER

The motion for reconsideration and reconsideration en banc (Docket Entry No. 9) is denied as untimely. *See* 9th Cir. R. 27-10.

This appeal remains closed.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Alex Christopher  
Deputy Clerk  
Ninth Circuit Rule 27-7