

APPENDIX

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APPENDIX A

**United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 23-5241

September Term, 2023

**1:21-cv-03035-CJN
1:23-cv-00015-CJN
1:23-cv-00132-CJN**

Filed On: January 8, 2024

In re: Robert M. Miller,

Petitioner

BEFORE: Henderson, Childs, and Pan, Circuit
Judges

ORDER

Upon consideration of the petition for writ of mandamus, it is

ORDERED that the petition be denied. Petitioner has not demonstrated a clear and indisputable right to the relief requested. See Cobell v. Norton, 334 F.3d 1128, 1139 (D.C. Cir. 2003). The district court's statements, actions, and rulings at issue do not provide a sufficient basis to warrant recusal. See SEC v. Loving Spirit Found. Inc., 392 F.3d 486, 494 (D.C. Cir. 2004).

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Pursuant to D.C. Circuit Rule 36, this disposition
will not be published.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Selena R. Gancasz
Deputy Clerk

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APPENDIX B

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ROBERT M. MILLER,

Plaintiff,

v.

MARTIN J. GRUENBERG,
Chairman, Federal Deposit
Insurance Corp., *et al.*,

Defendants.

Civil Action No.
1:21-cv-03035 (CJN)

ORDER

This matter is before the Court on Plaintiff Robert Miller's motion for my recusal. *See* ECF No. 78. Miller claims that I have predetermined the merits of his three cases in favor of the government. He describes my prior decisions as "irrational" and characterizes one of my orders as a "prejudiced, arbitrary, erroneous, unsupported, and abusive diatribe." Mot. for Recusal at 1, 26. He faults me for "refus[ing] to take well-pleaded, non-conclusory facts as true" and for "repeatedly declin[ing] to sanction Defendants for obvious F.R.C.P 11 violations." *Id.* at 11–12. My failure to sanction the government, according to Miller, "has rigged the outcome against [him] and given defendants license to commit more rule violations with impunity and immunity." *Id.* at 18. He claims that my alleged bias and "unalterably closed mind" flow from the fact that he is a *pro se* litigant who has "made many

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criminal allegations against federal officials, especially women, minorities, and Democrats.” *Id.* at 12–13. He further claims that I characterized all his prior cases as frivolous when, in fact, every case that he has filed since 2011 “has been a slam dunk in his favor, and judges”—including me—have “had to contort the law and facts, make up facts, violate legal standards, ignore evidence, ignore proven perjury, and lap up agency lies to rule against him.” *Id.* at 27. Based on my allegedly prejudicial rulings and poor case management, Miller accuses me of “attempting to fatigue [him] into exhausted submission.” *Id.* at 13.

Just “as judges have a duty to recuse themselves when partiality exists, judges have an equal duty to not recuse themselves when there is no basis for recusal.” *Jordan v. US. Dep’t of Justice*, 315 F. supp. 3d 584, 593 (D.D.C. 2018). Miller’s request for recusal rests largely on my prior decisions denying his motions for temporary restraining orders and for sanctions. But “judicial rulings . . . virtually never provide a basis for recusal.” *SEC v. Loving Spirit Found., Inc.*, 392 F.3d 486, 494 (D.C. Cir. 2004). Recognizing as much, Miller attempts to show that I have displayed favoritism toward the government and antagonism toward him.

But Miller offers no evidence that would reasonably call my impartiality into question. On the issue of sanctions, for example, courts have wide “discretion to decide whether a Rule 11 violation has occurred and what sanctions should be imposed if there has been a violation.” *Long v. US. Dep’t of Justice*, 207 F.R.D. 4, 6

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(D.D.C. 2002). My decision not to impose sanctions on the government—as well as my decision not to “take action to disbar government counsel,” *Miller v. Gruenberg*, Civ. A. No. 21-3035 (CJN), Mot. for Reconsideration at 3, ECF No. 66—for alleged violations of the Federal Rules of Civil Procedure in no way prejudges the merits of Miller’s cases.

Nor is Miller’s ability to prosecute his cases undercut by my admonishment to Miller not to make frivolous or duplicative *filings*. This warning was prompted by Miller’s attempts to relitigate issues that have already been decided by this Court and others. At no point have I suggested that Miller’s underlying *claims* are themselves frivolous. Indeed, I have not reached the merits of his claims—in large part due to Miller’s extensive motions practice (which includes this motion for recusal). Finally, Miller is correct that, in deciding a motion to dismiss, courts must accept a complaint’s factual allegations as true. But his claim that I have failed to adhere to this standard is puzzling, because again, I have not yet ruled upon or even considered the government’s motions to dismiss.

In sum, Miller’s motion for recusal is without merit. Because I conclude that no “reasonable and informed observer would question [my] impartiality,” *Loving Spirit Found.*, 392 F.3d at 493 (quotations omitted), it is **ORDERED** that Plaintiff’s Motion for Recusal of Presiding Judge, ECF No. 78, is **DENIED**. It is further **ORDERED** that, per Plaintiff’s request, this case is **STAYED** so that Plaintiff can seek

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whatever relief he deems appropriate from the Court
of Appeals.

DATE: July 3, 2023 /s/ Carl J. Nichols
CARL J. NICHOLS
United States District Judge
