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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID A. LARSON, BRANDI LYNN
BAKER.

Plaintiff,

vs.

CENTRAL INTELLIGENCE AGENCY (CIA),
et al.,

Defendants.

1:10-cv-01774 OWW JLT

MEMORANDUM DECISION AND ORDER
RE PLAINTIFF'S "EXPARTE
MOTION AND NOTICE OF CLERKS'
ERROR, CONSTRUED AS A MOTION
FOR RECUSAL [Doc. 5].

Plaintiff David Larson, who brings this action along with Brandi Baker, his fiancé, alleges that in 1997, he was assaulted by Dr. Loeb, an employee of the Alfred Mann Foundation, and implanted with more than 100 microscopic medical devices. Doc. 1. Larson claims the federal government has been conducting medical experiments using testosterone-infused medical devices to evaluate the effect of the devices on unwitting human test subjects. *Id.* at 3. Larson maintains that the devices are being activated periodically by the defendants in ways that cause him pain and interfere with his daily life. *Id.* at 10-13.

Among the numerous defendants named in the Complaint is former President George H. W. Bush. Plaintiff objects to the assignment of this case to the undersigned District Judge, who

1 was appointed by George H. W. Bush, arguing that this
2 "constitutes a conflict of interest and prevents Plaintiffs from
3 receiving impartial and fair proceedings." Doc. 5 at 1.

4 Although entitled "Exparte Motion and Notice of Clerk Error,"
5 this motion will be treated as a motion to recuse.

6
7 Under 28 U.S.C. § 144, if "the judge before whom the
8 matter is pending has a personal bias or prejudice either against
9 him or in favor of any adverse party, ... [he] shall proceed no
10 further...." 28 U.S.C. § 455(a) provides: "[a]ny ... judge ...
11 shall disqualify himself in any proceeding in which his
12 impartiality might reasonably be questioned." Under both recusal
13 statutes, the substantive standard is "whether a reasonable
14 person with knowledge of all the facts would conclude that the
15 judge's impartiality might reasonably be questioned." *Pesnell v.*
16 *Arsenault*, 543 F.3d 1038, 1043 (9th Cir. 2008).

17
18 It appears Plaintiff is unaware of the normal process for
19 assignment of cases in this District. This case was assigned
20 randomly to the undersigned District Judge, according to the
21 process set forth in Appendix A to the local rules of the Eastern
22 District of California.¹ As a matter of law, there is no
23 "personal bias or prejudice" created when a federal judge
24 presides over a matter involving the President who appointed that
25 judge. Neither a judge's political affiliation nor his or her
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27 ¹ Available at:
28 <http://www.caed.uscourts.gov/caed/DOCUMENTS/localRules/LocalRules060210.pdf>,
at p. 187.

1 appointment by a particular President are grounds for recusal.
2 See *Sataki v. Broadcasting Bd. of Governors*, --- F. Supp. 2d ---,
3 2010 WL 2679893 (D.D.C. 2010) (rejecting argument that recusal
4 was necessary because presiding judge was nominated by a
5 Democratic administration); *In re Executive Office of the*
6 *President*, 215 F.3d 25 (D.C. Cir. 2000) (Circuit Judge not
7 required to recuse himself from hearing a case involving the
8 conduct of the President who appointed him).

9
10 Plaintiffs' motion to recuse is entirely without merit
11 and is DENIED.

12
13 SO ORDERED

14 DATED: November 5, 2010

15 /s/ Oliver W. Wanger
16 Oliver W. Wanger
17 United States District Judge
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