ORDERED.

Dated: September 03, 2021

Lori V. Vaughan
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re:	)	Case No. 6:21-bk-00031-LVV
	)	Chapter 7
Inez Christine Bracy,	)	
	)	
Debtor.	)	
	)	

ORDER DENYING MOTION TO DISQUALIFY

THIS CASE came before the Court without a hearing on the Motion to Disqualify the Honorable Lori V. Vaughan and Incorporated Memorandum of Law (Doc. No. 98) (the "Motion to Disqualify") filed by the debtor, Inez Christine Bracy (the "Debtor"). The Debtor requests the Court recuse herself from this case because my rulings and comments made at the hearing held on July 14, 2021 demonstrate my "bias and prejudice" toward the Debtor and are "at war" with the Florida Statutes, United States Constitution and Bankruptcy Code. For the reasons stated below, the Court finds that the Motion is without merit and therefore should be denied.

Debtor filed a voluntarily petition for relief under chapter 7 on January 6, 2021.[1] This case is the Debtor's third chapter 7 bankruptcy, having filed one prior case that resulted in a

[1] Doc. No. 1.

discharge ("2011 Case"),[2] and another which the court dismissed.[3] During this case, the Debtor sought sanctions against third parties for alleged violations of the automatic stay or discharge injunction for actions which occurred during this case or during or after the 2011 Case (collectively the "Motions for Sanctions").[4] On June 2, 2021, the Debtor and third parties appeared at a preliminary hearing on the request for sanctions, which the Court continued to July 14, 2021.

Two days prior to July 14th hearing, the Debtor requested a continuance of the hearing which the Court denied.[5] On July 14, 2021, the Debtor and third parties appeared at the hearing on the Motions for Sanctions. After considering the record and hearing arguments of counsel and the Debtor, the Court denied the Motions for Sanctions.[6] The Debtor filed a motion to reconsider the orders denying the Motions for Sanctions, the order denying the continuance of the July 14th hearing, and this Motion to Disqualify.

Federal Rule of Bankruptcy Procedure 5004 provides that recusal or disqualification of a bankruptcy judge is governed by 28 U.S.C. § 455. The party seeking disqualification of a judge must prove that disqualification is warranted by clear and convincing evidence. *In re Cuprill*, Case No. 6:16-bk-00196-KSJ, 2017 WL 33518 at *1 (Bankr. M.D. Fla. Jan. 14, 2017).

The Debtor argues 28 U.S.C. § 455(a) and (b)(1) require my disqualification in this case. A federal judge is required to disqualify herself under § 455(a) "in any proceeding in which his impartiality might reasonably be questioned" and under § 455(b)(1) where she "has a personal

[2] *In re Inez Christine Bracy*, Case No. 6:11-bk-00218-LVV (Bankr. M.D. Fla. filed Jan. 10, 2011). The Debtor received a discharge in this case on June 6, 2011 (Doc. No. 55).
[3] *In re Inez Christine Bracy*, Case No. 6:10-bk-01535-ABB (Bankr. M.D. Fla. filed Feb. 2, 2010). The Debtor requested dismissal of this case (Doc. No. 20), which the court granted.
[4] Doc. Nos. 68, 81, and 82. The Debtor seeks sanctions against Victoria Gardens Homeowners Association, Evergreen Lifestyles Management, Carlos R. Arias, Correy B. Karbiener, PHH Mortgage Corporation d/b/a PHH Mortgage Services, Ocwen Loan Servicing, Deutsche Bank National Trust Company as Trustee, and NewRez, LLC.
[5] Doc. Nos. 79 and 80.
[6] Doc. Nos. 84, 85 and 86.

bias or prejudice concerning a party…" 28. U.S.C. § 455(a), (b)(1). The standard for determining whether a judge should recuse herself is an objective one, requiring the court to consider "whether a disinterested observer, fully informed of the facts underlying the grounds on which recusal was sought, would entertain a significant doubt about the judge's impartiality." *Liebman v. Deutsche Bank Nat. Trust Co.*, 462 Fed. App'x. 876, 879 (11th Cir. 2012); *see also Brookshire v. C.I.R.*, 452 Fed. App'x. 901, 904 (11th Cir. 2012).

Any bias must be personal, rather than judicial, and "stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from [her] participation in the case." *Brookshire* 452 Fed. App'x. at 904 (quoting *Jaffe v. Grant*, 793 F.2d 1182, 1188-89 (11th Cir. 1986)). The party seeking recusal must provide specific facts establishing the perceived bias. *In re Clark*, 289 B.R. 193, 196 (Bankr. M.D. Fla. 2002). "The decision to recuse or not recuse is in the sound discretion of the judge being asked to recuse himself." *In re Bonaventure*, Case No. 6:09-bk-18649-ABB, 2010 WL 11719127 (Bankr. M.D. Fla. July 2, 2010).

Here, the Debtor alleges that recusal is appropriate because my rulings and comments made at the hearing on July 14, 2021 demonstrate my "bias and prejudice" toward her and are not consistent with applicable law. I have reviewed the July 14, 2021 hearing transcript[7] and did not observe any personal bias toward the Debtor. Although a judge's remarks may show "such pervasive bias and prejudice that it constitutes bias against a party," a "judge's comments on lack of evidence" and adverse rulings do not "constitute pervasive bias." *Brookshire* 452 Fed. App'x. at 904 (quoting *Hamm v. Members of the Bd. of Regents of the State of Fla*., 708 F.2d 647, 651 (11th Cir. 1983). And a judge's "expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been

[7] Doc. No. 91.

confirmed as federal judges, sometimes display," do not demonstrate that the judge was biased. *Id.* (quoting *Liteky v. United States*, 510 U.S. 540, 555–56 (1994)). Further, the Supreme Court has explained that "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky* v. U.S., 510 U.S. 540, 555 (1994). Instead, judicial rulings are grounds for appeal. *Id*; *see also Clark*, 289 B.R. at 197 ("Any alleged bias that arises from facts that are a matter of record, which a judge learned from his involvement in a case is not sufficient to warrant a recusal.").

The Debtor has not met her burden to establish bias or the lack of impartiality. The Court's decisions were based only on the information in the record and interpretation of the law and not on any extrajudicial information. Debtor's disagreement with the Court's decisions is not grounds for recusal, but for appeal. The Debtor has not clearly and convincingly demonstrated that a reasonable person, knowing all of the facts, would conclude that the Court's impartiality might be questioned.

Accordingly, it is **ORDERED** that the Motion to Disqualify (Doc. No. 98) is **DENIED**.

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The Clerk is directed to serve a copy of this order on all interested parties who are non-CM/ECF users.