UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN THE MATTER OF:	:	CASE NUMBER: A03-94997-PWB
	:	
HAROLD A. SHAW,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Debtor.	:	BANKRUPTCY CODE

ORDER DENYING MOTION FOR RECUSAL

Before the Court is the motion of Harold A. Shaw ("Debtor") for recusal of the undersigned in this bankruptcy case. Debtor contends that recusal is warranted because the undersigned has displayed bias, impartiality, and a "lack of consideration . . . to fully address the problems associated with this case." For the reasons set forth herein, the Debtor's motion is denied.

Section 455 of Title 28 governs the disqualification of federal judges, including bankruptcy judges, from acting in particular cases.[1] Of relevance to this particular case are the requirements that a judge shall disqualify himself in "any proceeding in which his impartiality might reasonably be questioned" or "where he has a personal bias or prejudice concerning a party." 28 U.S.C. § 455(a) and (b)(1).

In *Liteky v. United States*, 510 U.S. 540, 555 (1994), the United States Supreme Court explained

> [O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment

[1]Rule 5004 of the Federal Rules of Bankruptcy Procedure provides that a "bankruptcy judge shall be governed by 28 U.S.C. § 455, and disqualified from presiding over the proceeding or contested matter in which the disqualifying circumstances arises or, if appropriate, shall be disqualified from presiding over the case."

> impossible. Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.

Debtor has not set forth with particularity any facts or circumstances evidencing bias by this court. *Blizard v. Frechette*, 601 F.2d 1217, 1221 (1st Cir. 1979) ("trial judge must hear cases unless some reasonable factual basis to doubt the impartiality or fairness of the tribunal is shown by some kind of probative evidence"); *United States v. Corr*, 434 F.Supp. 408, 412-413 (S.D.N.Y. 1977) (the test for disqualification under 28 U.S.C. § 455 "is not the subjective belief of the defendant or that of the judge, but whether facts have been presented that, assuming their truth, would lead a reasonable person reasonably to infer that bias or prejudice existed, thereby foreclosing impartiality of judgment."). Debtor's motion appears to rest on the generalized grievance that because his requests for relief have been denied, the Court has displayed bias towards him. However, adverse rulings by a court do not establish bias for purposes of disqualification. *See In re Clark*, 289 B.R. 193 (Bankr. M.D. Fla. 2002); *In re Lickman*, 284 B.R. 299 (Bankr. M.D. Fla. 2002). "Judicial rulings are grounds for appeal, not recusal." *Grove Fresh Distributors, Inc. v. John Labatt, Ltd.*, 299 F.3d 635, 641 (7th Cir. 2002) (*citing Liteky*, 510 U.S. at 555).

Debtor has offered no evidence of "deep-seated favoritism or antagonism that would make fair judgment impossible." Indeed, none exists. This Court has provided Debtor with numerous opportunities to assert his claims and defenses regarding the foreclosure of his property. The findings of fact and conclusions of law announced on the record in support of the Court's Orders entered on April 30, 2004, September 23, 2004, and January 28, 2005 (in adversary proceeding no. 04-9199), evidence this Court's consideration of Debtor's arguments in light of the facts and the law and demonstrate a complete lack of bias in the Court's determinations in the Debtor's case. As such, the Court finds no basis for recusal in this case. In addition, the Court

notes that because the Chapter 7 Trustee has filed a report of no distribution, the Debtor has received his discharge, and the Court has issued an Order of abstention and dismissal in adversary proceeding number 04-9199, *Harold A. Shaw v. Citibank/Chase Bank d/b/a Martin & Brunavs*, there appear to be no further pending proceedings which warrant judicial determination. Accordingly, it is

ORDERED that Debtor's motion for recusal is **DENIED**.

The Clerk is directed to serve copies of this Order on the persons on the attached Distribution List.

At Atlanta, Georgia, this _____ day of March, 2005.

_____
PAUL W. BONAPFEL
UNITED STATES BANKRUPTCY JUDGE

DISTRIBUTION LIST

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