



Laura T Beyer

Laura T. Beyer
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

In re:)	
)	
ANTOINETTE SABATER BRAINARD)	Chapter 7
)	Case No. 22-30656
Debtor.)	
_____)	

ORDER DENYING DEBTOR’S MOTION OF RECUSAL

THIS MATTER is before the court on the pro se Debtor’s May 16, 2025 “Motion of Recusal” (“Motion”). The Motion alleges that the court ignored the Debtor’s critical—yet unidentified—health issues and forced her to continue in this case in an unfair manner. The Motion also alleges the court makes decisions based on “feelings and opinions and not on fact/evidence.” The court held a hearing on the Motion on June 11, 2025. The Chapter 7 Trustee appeared, but the Debtor did not.

The Debtor commenced this case on December 27, 2022 when she filed a voluntary petition for relief pursuant to Chapter 13 of the United States Bankruptcy Code. On February 12, 2024, creditors John and Sharon Hinds filed a motion to convert the case to Chapter 7 of the Bankruptcy Code (“Motion to Convert”). The court

then converted the case to Chapter 7 on November 6, 2024. Since the court converted the case to Chapter 7, the Debtor has filed a plethora of motions, sent emails regarding her case, and appeared at two hearings on her own behalf. The Debtor, however, has declined to appear at recent hearings in the case,* often citing her undisclosed and undefined illness as the reason for her absence and the basis for her requests for continuances. The Debtor also refuses to comply with this court’s March 28, 2025 Order Granting Trustee’s Motion for Authority to Market Residential Real Property for Sale (“Marketing Order”) and its April 25, 2025 Order Directing Debtor to Provide Trustee with Keys to Residential Real Property and Add Trustee to Homeowner’s Insurance Policy (“Access Order”).

The Debtor’s Motion does not cite any relevant law—or any law at all—supporting her request for recusal. Rule 5004 of the Federal Rules of Bankruptcy Procedure provides that section 455 of Title 28 governs the disqualification of bankruptcy judges. Section 455 states that “[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might be reasonably questioned.” 28 U.S.C. § 455(a). Furthermore, a judge should disqualify herself if she “has a personal bias or prejudice concerning a party.” § 455(b)(1). For a bias to become personal enough to warrant recusal it must be “‘of a continuing and personal nature’ and rise[] to the level of ‘demonstrat[ing] a bias against the party itself.’” Belue v. Leventhal, 640 F.3d 567, 574 (4th Cir. 2011) (second alteration in original) (quoting In re Beard, 811 F.2d 818, 830 (4th Cir. 1987)).

* The hearings occurred on May 7, 2025; May 21, 2025; and June 11, 2025.

Thus, the bias must be brought into the courtroom by the judge and not based on her rulings in a particular matter. See Beard, 811 F.2d at 830 (explaining that a petitioner's assertion that a judge approved and entered an "unprecedented order" was not sufficient grounds for recusal).

Although the Debtor may be offended by the court's previous rulings, the Debtor's disagreement is not a basis for recusal as section 455 "was never intended to enable a discontented litigant to oust a judge because of adverse rulings made." Liteky v. U.S., 510 U.S. 540, 549 (1994) (quoting Ex parte Am. Steel Barrel Co., 230 U.S. 35, 44 (1913)). Additionally, disapproving or even hostile remarks by a judge ordinarily do not qualify as a basis to allege partiality. Id. at 555; see Belue, 640 F.3d at 574 (4th Cir. 2011) (noting that the Fourth Circuit declined to require recusal when a judge allegedly referred to counsel using profanities (citing Beard, 811 F.2d at 830)).

The Debtor's Motion relies on four arguments: the court "continues to move my case forward regardless of my health condition"; the court "has also made decisions based on her feelings and opinions and not on fact/evidence"; the Debtor is "being threatened with sanctions and with Federal Marshalls [sic] for simply acting as my own attorney"; and the Debtor is "being denied an appeal."

Serious health issues are not to be ignored, and the court has attempted to accommodate the Debtor's alleged illness while trying to move the case forward. The Debtor, however, refuses to comply with the court's orders and evades responsibility. She has not presented any doctor's note or proof of a medical condition. In the most recent example of the Debtor's evasive behavior, she did not appear at the June 11

hearing on her own Motion, yet a man who was presumably her spouse filed a “Motion of Continuance” on the morning of June 11 *in person at the courthouse* and informed the clerk that the Debtor would be present at the hearing.

Moreover, the Debtor does not cite any order or ruling that the court decided based on “feelings and opinions” in the Motion. She references decisions “based on a ‘feeling’ and [the court’s] ‘opinion’ ” in “the transcripts,” but never identifies an order, ruling, or transcript with any specificity.

Federal courts have the inherent power to manage their own proceedings, Chambers v. Nasco, Inc., 501 U.S. 32, 43 (1991), and that includes the power to impose sanctions for the “willful disobedience of a court order,” id. at 45 (quoting Alyeska Pipeline Serv. Co. v. Wilderness Soc’y, 421 U.S. 240, 257–258 (1975)). The Debtor claims that the court threatened to impose sanctions on her because of her pro se status. The Debtor’s Motion conveniently omits that the court threatened sanctions and the involvement of the U.S. Marshal Service due to her continued failure to comply with the court’s Marketing Order and Access Order and to appear at compliance hearings.

Furthermore, the Debtor’s claim that she is “being denied an appeal” is patently false. The Debtor filed her appellate brief in the United States District Court on May 16, 2025, the same day that she filed the Motion.

The Debtor seeks to remain in her home without paying her mortgage by abusing the bankruptcy stay and filing non-stop motions in order to prolong her case. The Motion of Recusal is just another delay tactic, like her Motion of Continuance

filed the morning of the June 11 hearing that she did not attend.

The Debtor's allegations do not satisfy the standard for disqualification of a judge, and there is no basis for the court to recuse itself. Accordingly, the court hereby **DENIES** the Debtor's Motion of Recusal.

SO ORDERED.

This Order has been signed electronically. The Judge's signature and Court's seal appear at the top of the Order.

United States Bankruptcy Court