SUPREME COURT OF THE UNITED STATES

No. 92–6921

JOHN PATRICK LITEKY, CHARLES JOSEPH LITEKY AND ROY LAWRENCE BOURGEOIS, PETITIONERS *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

[March 7, 1994]

JUSTICE SCALIA delivered the opinion of the Court.

Section 455(a) of Title 28 of the United States Code requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." This case presents the question whether required recusal under this provision is subject to the limitation that has come to be known as the "extrajudicial source" doctrine.

In the 1991 trial at issue here, petitioners were charged with willful destruction of property of the United States in violation of 18 U. S. C. §1361. The indictment alleged that they had committed acts of vandalism, including the spilling of human blood on walls and various objects, at the Fort Benning Military Reservation. Before trial petitioners moved to disqualify the District Judge pursuant to 28 U. S. C. §455(a). The motion relied on events that had occurred during and immediately after an earlier trial, involving petitioner Bourgeois, before the same District Judge.

In the 1983 bench trial, Bourgeois, a Catholic priest of the Maryknoll order, had been tried and convicted

of various misdemeanors committed during a protest action, also on the federal enclave of Fort Benning. Petitioners claimed that recusal was required in the present case because the judge had displayed "impatience, disregard for the defense and animosity" toward Bourgeois, Bourgeois' codefendants, and their beliefs. The alleged evidence of that included the following words and acts by the judge: stating at the outset of the trial that its purpose was to try a criminal case and not to provide a political forum; observing after Bourgeois' opening statement (which described the purpose of his protest) that the statement ought to have been directed toward the anticipated evidentiary showing; limiting defense counsel's cross-examination; questioning witnesses; periodically cautioning defense counsel to confine his questions to issues material to trial; similarly admonishing witnesses to keep answers responsive to actual questions directed to material issues; admonishing Bourgeois that closing argument was not a time for "making a speech" in a "political forum"; and giving Bourgeois what petitioners considered to be an excessive sentence. The final asserted ground for disqualification —and the one that counsel for petitioners described at oral argument as the most serious—was the judge's interruption of the closing argument of one of Bourgeois' codefendants, instructing him to cease the introduction of new facts, and to restrict himself to discussion of evidence already presented.

The District Judge denied petitioners' disqualification motion, stating that matters arising from judicial proceedings were not a proper basis for recusal. At the outset of the trial, Bourgeois' counsel informed the judge that he intended to focus his defense on the political motivation for petitioners' actions, which was to protest United States government involvement in El Salvador. The judge said that he would allow petitioners to state their political purposes in opening argument and to testify about them as well, but that he would not allow long speeches or discussions concerning government policy. When, in the course of opening argument, Bourgeois' counsel began to explain the circumstances surrounding certain events in El Salvador, the prosecutor objected, and the judge stated that he would not allow discussion about events in El Salvador. He then instructed defense counsel to limit his remarks to what he expected the evidence to show. At the close of the prosecution's case, Bourgeois renewed his disqualification motion, adding as grounds for it the District Judge's "admonishing [him] in front of the jury" regarding the opening statement, and the District Judge's unspecified "admonishing [of] others," in particular Bourgeois' two *pro se* codefendants. The motion was again denied. Petitioners were convicted of the offense charged.

Petitioners appealed, claiming that the District Judge violated 28 U. S. C. §455(a) in refusing to recuse himself. The Eleventh Circuit affirmed the convictions, agreeing with the district court that "matters arising out of the course of judicial proceedings are not a proper basis for recusal." 973 F. 2d 910 (1992). We granted certiorari. 507 U. S. ___ (1993).

Required judicial recusal for bias did not exist in England at the time of Blackstone. 3 W. Blackstone, Commentaries *361. Since 1792, federal statutes have compelled district judges to recuse themselves when they have an interest in the suit, or have been counsel to a party. See Act of May 8, 1792, ch. 36, §11, 1 Stat. 278. In 1821, the basis of recusal was expanded to include all judicial relationship or connection with a party that would in the judge's opinion make it improper to sit. Act of Mar. 3, 1821, ch. 51, 3 Stat. 643. Not until 1911, however, was a provision enacted requiring district-judge recusal for bias *in general*. In its current form, codified at 28 U. S. C. §144, that provision reads as follows:

> "Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.
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> "The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith."

Under §144 and its predecessor, there came to be generally applied in the courts of appeals a doctrine, more standard in its formulation than clear in its application, requiring—to take its classic formulation found in an oft-cited opinion by Justice Douglas for this Court—that "[t]he alleged bias and prejudice to be disqualifying [under §144] must stem from an extrajudicial source." *United States* v. *Grinnell Corp.*,

384 U. S. 563, 583 (1966). We say that the doctrine was less than entirely clear in its application for several reasons. First, *Grinnell* (the only opinion of ours to recite the doctrine) clearly meant by "extrajudicial source" a source outside the judicial proceeding at hand—which would include as extrajudicial sources earlier judicial proceedings conducted by the same judge (as are at issue here).[1] Yet many, perhaps most, courts of appeals considered knowledge (and the resulting attitudes) that a judge properly acquired in an earlier proceeding *not* to be "extrajudicial." See, *e.g.*, *Lyons* v. *United States*, 325 F. 2d 370, 376 (CA9), cert. denied, 377 U. S. 969 (1964); *Craven* v. *United States*, 22 F. 2d 605, 607–608 (CA1 1927). Secondly, the doctrine was often quoted as justifying the refusal to consider trial *rulings* as the basis for §144 recusal. See, *e. g.*, *Toth* v. *Trans World Airlines, Inc.*, 862 F. 2d 1381, 1387–1388 (CA9 1988); *Liberty Lobby, Inc.* v. *Dow Jones & Co.*, 838 F. 2d 1287, 1301 (CADC), cert. denied, 488 U. S. 825 (1988). But trial *rulings* have a judicial *expression* rather than a judicial *source*. They may well be based upon extrajudicial knowledge or motives. Cf. *In re International Business Machines Corp.*, 618 F. 2d 923, 928, n. 6 (CA2 1980). And

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[1]That is clear when the language from *Grinnell* excerpted above is expanded to include its entire context: "The alleged bias and prejudice to be disqualifying must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case. *Berger* v. *United States*, 255 U. S. 22, 31. Any adverse attitudes that [the district judge in the present case] evinced toward the defendants were based on his study of the depositions and briefs which the parties had requested him to make." 384 U. S., at 583. The cited case, *Berger*, had found recusal required on the basis of judicial remarks made in an earlier proceeding.

finally, even in cases in which the "source" of the bias or prejudice was clearly the proceedings themselves (for example, testimony introduced or an event occurring at trial which produced unsuppressible judicial animosity), the supposed doctrine would not necessarily be applied. See, *e. g.*, *Davis* v. *Board of School Comm'rs of Mobile County*, 517 F. 2d 1044, 1051 (CA5 1975), cert. denied, 425 U. S. 944 (1976) (doctrine has "pervasive bias" exception); *Rice* v. *McKenzie*, 581 F. 2d 1114, 1118 (CA4 1978) (doctrine "has always had limitations").

Whatever the precise contours of the "extrajudicial source" doctrine (a subject to which we will revert shortly), it is the contention of petitioners that the doctrine has no application to §455(a). Most courts of appeals to consider the matter have rejected this contention, see *United States* v. *Barry*, 961 F. 2d 260, 263 (CADC 1992); *United States* v. *Sammons*, 918 F. 2d 592, 599 (CA6 1990); *McWhorter* v. *Birmingham*, 906 F. 2d 674, 678 (CA11 1990); *United States* v. *Mitchell*, 886 F. 2d 667, 671 (CA4 1989); *United States* v. *Merkt*, 794 F. 2d 950, 960 (CA5 1986), cert. denied, 480 U. S. 946 (1987); *Johnson* v. *Trueblood*, 629 F. 2d 287, 290–291 (CA3 1980), cert. denied, 450 U. S. 999 (1981); *United States* v. *Sibla*, 624 F. 2d 864, 869 (CA9 1980). Some, however, have agreed with it, see *United States* v. *Chantal*, 902 F. 2d 1018, 1023–1024 (CA1 1990); cf. *United States* v. *Coven*, 662 F. 2d 162, 168–169 (CA2 1981) (semble), cert. denied, 456 U. S. 916 (1982). To understand the arguments pro and con it is necessary to appreciate the major changes in prior law effected by the revision of §455 in 1974.

Before 1974, §455 was nothing more than the then-current version of the 1821 prohibition against a judge's presiding who has an interest in the case or a relationship to a party. It read, quite simply:

> "Any justice or judge of the United States shall disqualify himself in any case in which he has a

> substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein." 28 U. S. C. §455 (1970 ed.).

The 1974 revision made massive changes, so that §455 now reads as follows:

> "(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
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> "(b) He shall also disqualify himself in the following circumstances:
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> "(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
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> "(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;
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> "(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
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> "(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
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> "(5) He or his spouse, or a person within the third degree of relationship to either of them, or

> the spouse of such a person:
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> "(i) Is a party to the proceeding, or an officer, director, or trustee of a party;
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> "(ii) Is acting as a lawyer in the proceeding;
>
> "(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;
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> "(iv) Is to the judge's knowledge likely to be a material witness in the proceeding."

Almost all of the revision (paragraphs (b)(2) through (b)(5)) merely rendered objective and spelled out in detail the "interest" and "relationship" grounds of recusal that had previously been covered by §455. But the other two paragraphs of the revision brought into §455 elements of general "bias and prejudice" recusal that had previously been addressed only by §144. Specifically, paragraph (b)(1) entirely duplicated the grounds of recusal set forth in §144 ("bias or prejudice"), but (1) made them applicable to *all* justices, judges and magistrates (and not just district judges), and (2) placed the obligation to identify the existence of those grounds upon the judge himself, rather than requiring recusal only in response to a party affidavit.

Subsection (a), the provision at issue here, was an entirely new "catch-all" recusal provision, covering both "interest or relationship" and "bias or prejudice" grounds, see *Liljeberg* v. *Health Services Acquisition Corp.*, 486 U. S. 847 (1988)—but requiring them *all* to be evaluated on an *objective* basis, so that what matters is not the reality of bias or prejudice but its appearance. Quite simply and quite universally, recusal was required whenever "impartiality might reasonably be questioned."

What effect these changes had upon the "extrajudicial source" doctrine—whether they in effect render it obsolete, of continuing relevance only to §144, which seems to be properly invocable only when §455(a) can be invoked anyway—depends upon

what the basis for that doctrine was. Petitioners suggest that it consisted of the limitation of §144 to "*personal* bias or prejudice," bias or prejudice officially acquired being different from "personal" bias or prejudice. And, petitioners point out, while §455(b)(1) retains the phrase "personal bias or prejudice," §455(a) proscribes all partiality, not merely the "personal" sort.

It is true that a number of courts of appeals have relied upon the word "personal" in restricting §144 to extrajudicial sources, see, *e. g.*, *Craven* v. *United States*, 22 F. 2d 605, 607–608 (CA1 1927); *Ferrari* v. *United States*, 169 F. 2d 353, 355 (CA9 1948). And several cases have cited the absence of that word as a reason for excluding that restriction from §455(a), see *United States* v. *Coven*, 662 F. 2d 162, 168 (CA2 1981), cert. denied, 456 U. S. 916 (1982); *Panzardi-Alvarez* v. *United States*, 879 F. 2d 975, 983–984, and n. 6 (CA1), cert. denied, 493 U. S. 1082 (1989). It seems to us, however, that that mistakes the basis for the "extrajudicial source" doctrine. Petitioners' suggestion that we relied upon the word "personal" in our *Grinnell* opinion is simply in error. The only reason *Grinnell* gave for its "extrajudicial source" holding was citation of our opinion almost half a century earlier in *Berger* v. *United States*, 255 U. S. 22 (1921). But that case, and the case which it in turn cited, *Ex parte American Steel Barrel Co.*, 230 U. S. 35 (1913), relied not upon the word "personal" in §144, but upon its provision requiring the recusal affidavit to be filed ten days before the beginning of the court term. That requirement was the reason we found it obvious in *Berger* that the affidavit "must be based upon facts antedating the trial, not those occurring during the trial," 255 U. S., at 34; and the reason we said in *American Steel Barrel* that the recusal statute "was never intended to enable a discontented litigant to oust a judge because of adverse rulings made, . . . but to prevent his future

action in the pending cause," 230 U. S., at 44.

In our view, the proper (though unexpressed) rationale for *Grinnell*, and the basis of the modern "extrajudicial source" doctrine, is not the statutory term "personal"—for several reasons. First and foremost, that explanation is simply not the semantic success it pretends to be. Bias and prejudice seem to us not divided into the "personal" kind, which is offensive, and the official kind, which is perfectly all right. As generally used, these are pejorative terms, describing dispositions that are *never* appropriate. It is common to speak of "personal bias" or "personal prejudice" without meaning the adjective to do anything except emphasize the idiosyncratic nature of bias and prejudice, and certainly without implying that there is some other "nonpersonal," benign category of those mental states. In a similar vein, one speaks of an individual's "personal preference," without implying that he could also have a "nonpersonal preference." Secondly, interpreting the term "personal" to create a complete dichotomy between court-acquired and extrinsically acquired bias produces results so intolerable as to be absurd. Imagine, for example, a lengthy trial in which the presiding judge for the first time learns of an obscure religious sect, and acquires a passionate hatred for all its adherents. This would be "official" rather than "personal" bias, and would provide no basis for the judge's recusing himself.

It seems to us that the origin of the "extrajudicial source" doctrine, and the key to understanding its flexible scope (or the so-called "exceptions" to it), is simply the pejorative connotation of the words "bias or prejudice." Not *all* unfavorable disposition towards an individual (or his case) is properly described by those terms. One would not say, for example, that world opinion is biased or prejudiced against Adolf Hitler. The words connote a favorable or unfavorable disposition or opinion that is somehow *wrongful* or

inappropriate, either because it is undeserved, or because it rests upon knowledge that the subject ought not to possess (for example, a criminal juror who has been biased or prejudiced by receipt of inadmissible evidence concerning the defendant's prior criminal activities), or because it is excessive in degree (for example, a criminal juror who is so inflamed by properly admitted evidence of a defendant's prior criminal activities that he will vote guilty regardless of the facts). The "extrajudicial source" doctrine is one application of this pejorativeness requirement to the terms "bias" and "prejudice" as they are used in §§144 and 455(b)(1) with specific reference to the work of judges.

The judge who presides at a trial may, upon completion of the evidence, be exceedingly ill disposed towards the defendant, who has been shown to be a thoroughly reprehensible person. But the judge is not thereby recusable for bias or prejudice, since his knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings, and are indeed sometimes (as in a bench trial) necessary to completion of the judge's task. As Judge Jerome Frank pithily put it: "Impartiality is not gullibility. Disinterestedness does not mean child-like innocence. If the judge did not form judgments of the actors in those court-house dramas called trials, he could never render decisions." *In re J. P. Linahan, Inc.*, 138 F. 2d 650, 654 (CA2 1943). Also not subject to deprecatory characterization as "bias" or "prejudice" are opinions held by judges as a result of what they learned in earlier proceedings. It has long been regarded as normal and proper for a judge to sit in the same case upon its remand, and to sit in successive trials involving the same defendant.

It is wrong in theory, though it may not be too far off the mark as a practical matter, to suggest, as many opinions have, that "extrajudicial source" is the

only basis for establishing disqualifying bias or prejudice. It is the only *common* basis, but not the exclusive one, since it is not the *exclusive* reason a predisposition can be wrongful or inappropriate. A favorable or unfavorable predisposition can also deserve to be characterized as "bias" or "prejudice" because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment. (That explains what some courts have called the "pervasive bias" exception to the "extrajudicial source" doctrine. See, *e. g.*, *Davis* v. *Board of School Comm'rs of Mobile County*, 517 F. 2d 1044, 1051 (CA5 1975), cert. denied, 425 U. S. 944 (1976)).

With this understanding of the "extrajudicial source" limitation in §§144 and 455(b)(1), we turn to the question whether it appears in §455(a) as well. Petitioners' argument for the negative based upon the mere absence of the word "personal" is, for the reasons described above, not persuasive. Petitioners also rely upon the categorical nature of §455's language: Recusal is required *whenever* there exists genuine question concerning a judge's impartiality, and not merely when the question arises from an extrajudicial source. A similar "plain-language" argument could be made, however, with regard to §§144 and 455(b)(1): They apply *whenever* bias or prejudice exists, and not merely when it derives from an extrajudicial source. As we have described, the latter argument is invalid because the pejorative connotation of the terms "bias" and "prejudice" demands that they be applied only to judicial predispositions that go beyond what is normal and acceptable. We think there is an equivalent pejorative connotation, with equivalent consequences, to the term "partiality." See American Heritage Dictionary 1319 (3d ed. 1992) ("partiality" defined as "[f]avorable prejudice or bias"). A

prospective juror in an insurance-claim case may be stricken as partial if he always votes for insurance companies; but not if he always votes for the party whom the terms of the contract support. "Partiality" does not refer to all favoritism, but only to such as is, for some reason, wrongful or inappropriate. Impartiality is not gullibility. Moreover, even if the pejorative connotation of "partiality" were not enough to import the "extrajudicial source" doctrine into §455(a), the "reasonableness" limitation (recusal is required only if the judge's impartiality "might *reasonably* be questioned") would have the same effect. To demand the sort of "child-like innocence" that elimination of the "extrajudicial source" limitation would require is not reasonable.

Declining to find in the language of §455(a) a limitation which (petitioners acknowledge) *is* contained in the language of §455(b)(1) would cause the statute, in a significant sense, to contradict itself. As we have described, §455(a) expands the protection of §455(b), but duplicates some of its protection as well—not only with regard to bias and prejudice but also with regard to interest and relationship. Within the area of overlap, it is unreasonable to interpret §455(a) (unless the language *requires* it) as implicitly eliminating a limitation explicitly set forth in §455(b). It would obviously be wrong, for example, to hold that "impartiality could reasonably be questioned" simply because one of the parties is in the fourth degree of relationship to the judge. Section 455(b)(5), which addresses the matter of relationship specifically, ends the disability at the *third* degree of relationship, and that should obviously govern for purposes of §455(a) as well. Similarly, §455(b)(1), which addresses the matter of personal bias and prejudice specifically, contains the "extrajudicial source" limitation—and *that* limitation (since nothing in the text contradicts

it) should govern for purposes of §455(a) as well.[2]

Petitioners suggest that applying the "extrajudicial source" limitation to §455(a) will cause disqualification of a trial judge to be more easily obtainable upon remand of a case by an appellate court than upon direct motion. We do not see why that necessarily follows; and if it does, why it is necessarily bad. Federal appellate courts' ability to

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[2]JUSTICE KENNEDY asserts that what we have said in this paragraph contradicts the proposition, established in *Liljeberg*, that "subsections (a) and (b), while addressing many of the same underlying circumstances, are autonomous in operation." *Post*, at 11. *Liljeberg* established no such thing. It established that subsection (a) requires recusal in some circumstances where subsection (b) does not—but that is something quite different from "autonomy," which in the context in which JUSTICE KENNEDY uses it means that the one subsection is to be interpreted and applied without reference to the other.

It is correct that subsection (a) has a "broader reach" than subsection (b), *post*, at 12, but the provisions obviously have some ground in common as well, and should not be applied inconsistently there. *Liljeberg* concerned a respect in which subsection (a) *did* go beyond (b). Since subsection (a) deals with the *objective appearance* of partiality, any limitations contained in (b) that consist of a subjective-knowledge requirement are obviously inapplicable. Subsection (a) also goes beyond (b) in another important respect: It covers *all* aspects of partiality, and not merely those specifically addressed in subsection (b). However, when one of those aspects addressed in (b) *is* at issue, it is poor statutory construction to interpret (a) as nullifying the limitations (b) provides, except to the extent the text requires. Thus, as we have said, under subsection (a) as under (b)(5), fourth degree of kinship will not do.

What is at issue in the present case *is* an aspect of "partiality" already addressed in (b), personal bias or

assign a case to a different judge on remand rests not on the recusal statutes alone, but on the appellate courts' statutory power to "require such further proceedings to be had as may be just under the circumstances," 28 U. S. C. §2106. That may permit a different standard, and there may be pragmatic reasons for a different standard. We do not say so—but merely say that the standards applied on remand are irrelevant to the question before us here.

For all these reasons, we think that the "extrajudicial source" doctrine, as we have described it, applies to §455(a). As we have described it, however, there is not much doctrine to the doctrine. The fact that an opinion held by a judge derives from a source outside judicial proceedings is not a *necessary* condition for "bias or prejudice" recusal, since predispositions developed during the course of a trial will sometimes (albeit rarely) suffice. Nor is it a *sufficient* condition for "bias or prejudice" recusal, since *some* opinions acquired outside the context of judicial proceedings (for example, the judge's view of the law acquired in scholarly reading) will *not* suffice. Since neither the presence of an extrajudicial source necessarily establishes bias, nor the absence of an extrajudicial source necessarily precludes bias, it would be better to speak of the existence of a

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prejudice. The "objective appearance" principle of subsection (a) makes irrelevant the subjective limitation of (b)(1): The judge does not have to be *subjectively* biased or prejudiced, so long as he *appears* to be so. But nothing in subsection (a) eliminates the longstanding limitation of (b)(1), that "personal bias or prejudice" does not consist of a disposition that fails to satisfy the "extrajudicial source" doctrine. The objective appearance of an adverse disposition attributable to information acquired in a prior trial is not an objective appearance of personal bias or prejudice, and hence not an objective appearance of improper partiality.

significant (and often determinative) "extrajudicial source" *factor*, than of an "extrajudicial source" *doctrine*, in recusal jurisprudence.

The facts of the present case do not require us to describe the consequences of that factor in complete detail. It is enough for present purposes to say the following: First, judicial rulings alone almost never constitute valid basis for a bias or partiality motion. See *United States* v. *Grinnell Corp.*, 384 U. S. 563, 583 (1966). In and of themselves (*i. e.*, apart from surrounding comments or accompanying opinion), they cannot possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required (as discussed below) when no extrajudicial source is involved. Almost invariably, they are proper grounds for appeal, not for recusal. Second, opinions 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 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. They *may* do so if they reveal an opinion that derives from an extrajudicial source; and they *will* do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible. An example of the latter (and perhaps of the former as well) is the statement that was alleged to have been made by the District Judge in *Berger* v. *United States*, 255 U. S. 22 (1921), a World War I espionage case against German-American defendants: `One must have a very judicial mind, indeed, not [to be] prejudiced against the German Americans' because their `hearts are reeking with disloyalty.' *Id.*,

at 28. *Not* establishing bias or partiality, however, are expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display. A judge's ordinary efforts at courtroom administration—even a stern and short-tempered judge's ordinary efforts at courtroom administration—remain immune.

Applying the principles we have discussed to the facts of the present case is not difficult. None of the grounds petitioners assert required disqualification. As we have described, petitioners' first recusal motion was based on rulings made, and statements uttered, by the District Judge during and after the 1983 trial; and petitioner Bourgeois' second recusal motion was founded on the judge's admonishment of Bourgeois' counsel and co-defendants. In their briefs here, petitioners have referred to additional manifestations of alleged bias in the District Judge's conduct of the trial below, including the questions he put to certain witnesses, his alleged "anti-defendant tone," his cutting off of testimony said to be relevant to defendants' state of mind, and his post-trial refusal to allow petitioners to appeal *in forma pauperis*.[3]

All of these grounds are inadequate under the principles we have described above: They consist of judicial rulings, routine trial administration efforts,

[3]Petitioners' brief also complains of the district judge's refusal in the 1983 trial to call petitioner Bourgeois "Father," asserting that this "subtly manifested animosity toward Father Bourgeois." Brief for Petitioners 30. As we have discussed, when intrajudicial behavior is at issue, manifestations of animosity must be much more than subtle to establish bias.

and ordinary admonishments (whether or not legally supportable) to counsel and to witnesses. All occurred in the course of judicial proceedings, *and* neither (1) relied upon knowledge acquired outside such proceedings nor (2) displayed deep-seated and unequivocal antagonism that would render fair judgment impossible.

The judgment of the Court of Appeals is

Affirmed.