U.S. DISTRICT COURT EASTERN DISTRICT OF LOUISIANA THE UNITED STATES COURT OF APPEALS U.S. COURT OF APPEALS 4 1999 FFB -FILED FOR THE FIFTH CIRCUIT FILED LORETTA G. WHYTE FEB 02 1999 No. 98-31417 CLERK USDC/No. 2:98-CV-1792/c/w 2:98-CV-2102 CHARLES R. FULBRUGE III CLERK CARL BERNOFSKY, DR

versus

ADMINISTRATORS OF THE TULANE EDUCATIONAL FUND, Tulane University Medical School,

Defendant-Appellee.

CtRmDer Doc.No.

Plaintiff-Appellant,

Appeal from the United States District Court for the Eastern District of Louisiana

Before REYNALDO G. GARZA, DAVIS, and PARKER, Circuit Judges. BY THE COURT:

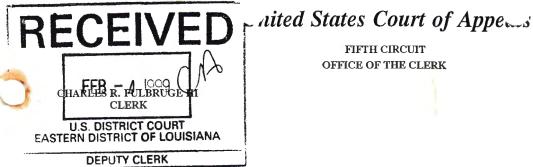
This court must examine the basis of its jurisdiction on its own motion if necessary. Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). In this employment discrimination case, the plaintiff has filed a notice of appeal from an order of the district court denying the plaintiff's motion for recusal of the district judge.

Federal appellate courts have jurisdiction over appeals only from (1) final orders, 28 U.S.C. § 1291; (2) orders that are deemed final due to jurisprudential exception or which can be properly certified as final pursuant to Fed. R. Civ. P. 54(b); and (3) interlocutory orders that fall into specific classes, 28 U.S.C. § 1292(a), or which can be properly certified for appeal Process by the district court, 28 U.S.C. § 1292(b). See Dardar v. X Dktd Rud 150

Lafourche Realty Co., 849 F.2d 955, 957 (5th Cir. 1988); Save the Bay, Inc. v. United States Army, 639 F.2d 1100, 1102 (5th Cir. 1981). An order denying a motion to recuse is not immediately appealable. Nobby Lobby, Inc. v. City of Dallas, 970 F.2d 82, 85 & n.3 (5th Cir. 1992).

APPEAL DISMISSED.

A true copy Test Clerk, U. S. Court of Appeals, Fifth Circuit By <u>Xa</u> onger Deputy **FEB** 2 1999 New Orleans, Louisiana



FIFTH CIRCUIT OFFICE OF THE CLERK

> TEL. 504-589-6514 600 CAMP STREET NEW ORLEANS, LA 70130

February 2, 1999

Ms Loretta Whyte, Clerk Eastern District of Louisiana, New Orleans United States District Court 500 Camp Street Room C-151 New Orleans, LA 70130

> No. 98-31417 Bernofsky v. Admin of Tulane Ed USDC No. 98-CV-1792-C 98-CV-2102

Enclosed is a certified copy of the judgment issued as the mandate.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By: Deputy Clerk LaTonya/Grant,

cc: w/encl: Mr Roger Dale Phipps Ms Julie Durel Livaudais

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