

MAY 19 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 10-90179

ORDER**KOZINSKI**, Chief Judge:

Complainants allege that a circuit judge should have recused from a civil case due to a conflict of interest, and that the judge's "continued involvement in [the] case only threatens to undermine the outcome and integrity of [the] proceeding" because the judge will "twist and pervert the U.S. Constitution, making it say what it in point of fact does not say at all." Insofar as complainants allege that the judge erred in denying a motion to recuse, the charges must be dismissed as merits-related. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009).

An allegation that a judge presided in a case in order to favor or disfavor a party may present a viable claim of misconduct if there's convincing evidence that the judge acted with a corrupt motive. See Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 146 (2006), available at <http://supremecourt.gov/publicinfo/breyercommitteereport.pdf>. Insofar as

complainants make such an allegation, their complaint lacks any evidence that the judge had a corrupt motive. This charge must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

I note that complainants

are NOT appealing to [the Judicial Council] only, but most importantly to the unilateral counsel and wisdom of ONE – and that is Almighty God who is the only Being whose truth and ruling matters and counts most in the end. If [the Judicial Council] fail[s] to take action and do what is right and just in this matter, please rest assured that the Most High God and Jesus Christ certainly will.

Dismissal of this complaint is required by section 352 and the Ninth Circuit's Rules for Judicial-Conduct and Judicial-Disability Proceedings. It would be unjust for the Judicial Council to ignore its own rules and those Congress set out to govern misconduct proceedings. But cf. Saint Augustine, On Free Choice of the Will 8 (Thomas Williams trans., Hackett Publ'g Co. 1993).

DISMISSED.