

MAY 18 2011

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 10-90181

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that a bankruptcy judge “impeach[ed] by fiat the most fundamentals [sic] of the proper administration of justice in this Country” by denying a motion to stay and ordering a paralegal to participate in a meet and confer conference. These charges relate directly to the merits of the judge’s rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the judge “routinely summon[ed] 3-5 United States Marshalls [sic] into [the] courtroom whenever [he] appear[ed] in an effort to intimidate [him] into remaining silent.” But complainant has provided no evidence that the judge had an improper motive. Having United States Marshals present for courtroom security isn’t proof that the judge tried to “silence” complainant, so this charge must be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009); see also 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that “judicial bias is in full play” because “[i]f the paper that [he] file[d] ha[d] any procedural irregularity in it” the judge would “deny the Motion outright.” But adverse rulings aren’t proof of bias, so this claim must also be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d at 598.

Complainant vaguely alleges that the judge was “very rude and injudicious in dealing with [him].” Complainant has provided no proof to support this allegation. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). A review of two hearing transcripts demonstrates that the judge was professional and polite at all times, and only reprimanded complainant when he was speaking out of turn and away from the lectern. Because there is no evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the judge engaged in ex-parte communications because he wanted “moving papers to be screened” before scheduling a hearing. Judges usually review motions before a hearing; this is entirely proper and does not amount to ex-parte communications. This charge must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.