

FEB 08 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 11-90158 and 11-90159

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that a district judge and a magistrate judge demonstrated bias in her civil case due to her pro se status. Adverse rulings do not prove bias, and because complainant offers no evidence to support her bias claim, this charge must be dismissed. See In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011); 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the judges made improper rulings regarding e-filing, the appointment of counsel, discovery and the sealing of confidential information. These charges relate directly to the merits of the judges' rulings and must therefore 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 suspects the magistrate judge had ex parte communications

with defendants and “secretly advised” them to include confidential information in their filings, and further believes the district judge knew about these communications. Because complainant presents no evidence to support this allegation, it must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009).

Complainant further alleges that both judges are disabled and lack the mental capacity to make sound judgments. But adverse rulings do not serve as proof of mental disability. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). These charges must therefore be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.