

**FILED**

JUN 09 2014

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 13-90109

**ORDER**

**KOZINSKI**, Chief Judge:

A pro se prisoner alleges that a magistrate judge should have recused himself from complainant’s civil rights case. Allegations that a judge erred in failing to recuse are merits-related and must be dismissed. 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. 2009). An allegation that a judge presided in a case knowing that he was subject to a conflict of interest may present a viable claim of judicial misconduct. But to state such a claim, a complainant must provide convincing proof that the judge was aware of the conflict or was acting with a corrupt motive. The evidence presented in this case is insufficient to make such a showing, and the allegations are dismissed for lack of objectively verifiable proof. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the judge demonstrated bias and “willful

incompetence.” However, complainant provides no objectively verifiable proof to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). Adverse rulings alone do not prove bias or incompetence. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). These charges must be dismissed as unsupported. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

**DISMISSED.**