FILED

MAY 18 2015

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

**JUDICIAL COUNCIL**

**OF THE NINTH CIRCUIT**

| **IN RE COMPLAINT OF** | No. 14-90062 |
|---|---|
| **JUDICIAL MISCONDUCT** | **ORDER** |

**THOMAS**, Chief Judge:

Complainant alleges that a district judge improperly denied his motion for the appointment of counsel and violated his due process and equal protection rights in his civil rights case. These allegations relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant further alleges that the district judge made "arbitrary and hostile" rulings against him in retaliation for his filing of a disqualification motion. He further alleges that the judge favored the defendants, and promptly ruled on defendants' motions while ignoring complainant's requests. However, adverse rulings do not prove bias, and because complainant offers no other evidence to support his bias claims, these charges 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 also alleges that the judge improperly delayed ruling on several motions and delayed the case by issuing a stay. Delay is not cognizable misconduct "unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Judicial-Conduct Rule 3(h)(3)(B); see In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009). Complainant has not provided any objective evidence that the alleged delay was habitual or improperly motivated. Because there is no evidence of misconduct, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant alleges that the judge failed to rule on several motions or requests, but a limited inquiry of the record belies that assertion. For example, complainant improperly filed motions for reconsideration without first seeking leave to file the motions pursuant to the local rule, and because the motions were not properly before the court, no rulings were required. Other motions listed by complainant were addressed by court rulings. Complainant entered into a settlement with defendants and the case is closed. Accordingly, there is no evidence of judicial misconduct, and this charge is dismissed as unfounded. See In re Complaint of Judicial Misconduct, 630 F.3d 1262, 1263 (9th Cir. Jud.

Council 2011); Judicial-Conduct Rule 11(c)(1)(A).

**DISMISSED.**