

FILED

AUG 24 2015

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 15-90066

ORDER

THOMAS, Chief Judge:

Complainant alleges that the district judge who presided over complainant's criminal trial was biased against complainant and favored the prosecution. To support this allegation, complainant points to the judge's decision to order a competency evaluation prior to sentencing. A district judge may order determination of a defendant's mental competency. See 18 U.S.C. § 4241. The decision to order a competency evaluation is not evidence of bias. This allegation is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

As further evidence of bias, complainant alleges that the judge improperly refused to file addenda to complainant's pro se motion to disqualify. Complainant speculates that the addenda were delayed in the mail and claims that, without regard to any mail delay, the judge should have filed the addenda. An individual judge does not have supervisory responsibility over the receipt of mail by the clerk

of court's office. Further, adverse rulings, including the judge's refusal to file complainant's addenda, cannot prove bias. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Because complainant offers no other evidence to support his claims, these charges are dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). Any disagreement complainant has with the judge's rulings is merits-related and not cognizable in misconduct proceedings. 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's allegations against the court reporter are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.