

FILED

FEB 10 2016

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 16-90033

ORDER

THOMAS, Chief Judge:

Complainant alleges that a district judge made various improper rulings in his habeas case, including not reappointing counsel after complainant's counsel withdrew, and not intervening to ensure that certain depositions took place. These allegations relate directly the merits of the judge's rulings and must 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 alleges that the judge acted with "reckless bias" and may have conspired with the attorney general's office to misrepresent facts in the order denying complainant's third amended habeas petition. Adverse rulings are not proof of bias or conspiracy. See In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009). Further, complainant provides no objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009). Without such evidence,

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 by not acknowledging on the record letters complainant’s parents sent to chambers asking for their son to be released. A judge has discretion to reject such documents and need not make them part of the court record.

Complainant has presented no objectively verifiable evidence of misconduct in this matter, and so the allegations must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.