

FILED

OCT 20 2016

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 16-90141

ORDER

THOMAS, Chief Judge:

Complainant, a pro se prisoner and criminal defendant, alleges that a district judge improperly denied his petition to remove his state criminal proceeding to federal court. These allegations relate directly to 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 also alleges that the judge improperly failed to recuse himself. However, complainant offers no evidence that the judge failed to recuse for an improper purpose, so this charge must be dismissed as merits-related. See id.; In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011).

Next, complainant alleges that the judge is biased against him, and against incarcerated litigants in general. However, adverse rulings alone are not proof of bias, and complainant provides no objectively verifiable evidence to support these

allegations, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant makes allegations against state prosecutors or other state officials, such allegations are dismissed because this misconduct complaint procedure applies only to federal judges. See In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

Complainant raised similar allegations against the same judge in a previous misconduct complaint. See In re Complaint of Judicial Misconduct, No. 15-90067 (9th Cir. Jud. Council, Sep. 10, 2015). Complainant is cautioned that a “complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.