

FILED

MAY 10 2017

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 17-90026

ORDER

THOMAS, Chief Judge:

Complainant, a victim-witness in a criminal fraud case, alleges that a district judge made various improper rulings related to sentencing. 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 failed to ensure that a portion of a sentencing hearing was transcribed, that the judge changed the defendant’s self-surrender date without notice to the victims, and that the judge held a hearing with defense and government counsel without the victims present. None of these allegations, even if true, would amount to misconduct. Complainant fails to allege any conduct “prejudicial to the effective and expeditious administration of the business of the courts,” 28 U.S.C. § 351(a), and accordingly these charges are dismissed. See In re Complaint of Judicial Misconduct, 726 F.3d 1060, 1062 (9th

Cir. Jud. Council 2013) (“Because complainant’s charges wouldn’t constitute misconduct even if true, the complaint is dismissed as groundless”); Judicial-Conduct Rule 11(c)(1)(A).

Finally, complainant alleges that the judge seemed to be biased in favor of the defendant. Adverse rulings are not proof of bias, and complainant provides no objectively verifiable evidence to support this allegation, which is 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 raises allegations against attorneys in the underlying case, 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.

DISMISSED.