

**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. 17-90033

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, alleges that her civil action was improperly removed to federal court, and that a district judge improperly dismissed her case and made various other improper rulings. 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. 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 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(B).

Next, complainant alleges that the subject judge was improperly assigned to her case, and that there is “no rotation of judges” in the judicial district. However,

“a litigant has no right to any particular procedure for the selection of the judge, so long as the judge is chosen in a manner free from bias or the desire to influence the outcome of the proceedings.” In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. 2011) (internal quotations omitted). Complainant offers no evidence that the subject judge was involved in the assignment of the underlying case or acted with an improper motive. Moreover, the mere fact that the same judge presided over multiple cases filed by complainant is not proof of misconduct. See id. Because complainant offers no other evidence to support this claim, this charge must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1147 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the judge “colluded” with the state attorney general, and dismissed the underlying case to retaliate against complainant for being a “tenacious litigant.” The record shows that complainant was ordered to correct deficiencies in her civil complaint, that complainant failed to correct those deficiencies, and that the complaint was therefore dismissed without prejudice. Complainant’s allegations of collusion and retaliation are wholly speculative, are not supported by the record, and are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial

Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant raises allegations against attorneys or state judges, 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.**