

**FILED**

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

NOV 16 2017

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

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 17-90085

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a litigant in a civil case, alleges that a district judge improperly denied his request for leave to amend, improperly denied his motion for reconsideration, 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 district judge "willfully ignored" a Ninth Circuit mandate. Although a "pattern and practice of disregarding prevailing legal standards may be misconduct," In re Judicial Misconduct, 631 F.3d 961, 962 (9th Cir. 2011) (internal quotations omitted), there is no evidence that happened here. The record shows that the appellate court remanded to the district court to consider whether to grant complainant leave to amend certain claims. The district judge granted leave to amend as to certain claims, and denied leave as to others, finding

that the latter would be barred by judicial immunity or other affirmative defenses.

Complainant presents no evidence of “virtually habitual” or an “arbitrary and intentional departure from prevailing law,” id. at 963, and accordingly this allegation 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).

Complainant further alleges that the judge had an “illicit motive” to dismiss his case without ruling on the merits of his claims, and speculates that the judge “may even be friends” with the opposing party. However, adverse rulings are not proof of bias, and complainant provides no objectively verifiable evidence to support these allegations, which must be dismissed. 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).

Finally, complainant alleges that the judge has improperly delayed ruling in the underlying case. The record shows that the judge issued a dispositive ruling less than one month after briefing was completed, that the judge granted leave to amend four days after the Ninth Circuit’s mandate issued, and that the case has continued to proceed in due course. Complainant shows no undue delay whatsoever, much less that any delay was improperly motivated, or that the judge

has habitually delayed a significant number of unrelated cases. Accordingly, this allegation is dismissed as unfounded. See In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009); Judicial-Conduct Rules 3(h)(3)(B), 11(c)(1)(D).

**DISMISSED.**