

FILED

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 17-90094

ORDER

THOMAS, Chief Judge:

Complainant, a criminal defendant, alleges that a district judge has improperly rejected his challenges to the court's jurisdiction among other improper rulings. These claims relate directly to the merits of the judge's rulings and must therefore 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 further alleges that the judge is biased in favor of and advocates for the prosecutor. To support this allegation, complainant points to the judge's order that complainant undergo a psychiatric evaluation after complainant requested permission to represent himself. 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).

Further, complainant claims that the judge “displayed unprofessional behavior from the bench,” which allegedly included screaming and preventing complainant from exercising his First Amendment rights. Complainant does not specify how his First Amendment rights were infringed. A review of the record indicates that although complainant attempted to represent himself, the judge appointed counsel due to complainant’s inability to understand the charges or the nature of the proceedings. The judge advised complainant that he could not continue to file pro se motions after an attorney had appeared on his behalf. The record also reveals that, for compelling safety and security reasons, the judge ordered complainant to be restrained in court because complainant had “demonstrated a history of disruptive courtroom behavior and a pattern of defiant behavior towards judicial authorities.” Several hearings were held, and complainant does not specify when the judge screamed, nor does he name any witnesses to the alleged incident. Complainant’s vague and conclusory allegations fail to raise any inference that misconduct has occurred, and these charges must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1372 (9th Cir. Jud. Council 2011) (rejecting

complainant's "invitation for the Judicial Council to conduct a fishing expedition" and explaining that "vague accusations and convoluted demands don't satisfy complainant's obligation to provide objective evidence of misconduct"); Judicial-Conduct Rules 11(c)(1)(A), (D).

Complainant further claims that the judge may be disabled. Because the judge ordered complainant to undergo a psychiatric examination, complainant believes that he is entitled to request that the judge be examined. Complainant provides no supporting evidence for this charge, which is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant's request that the judge be disqualified from presiding over his case is denied because he seeks relief that is not available in judicial misconduct proceedings. 28 U.S.C. § 354(a)(2); In re Complaint of Judicial Misconduct, 630 F.3d 1262 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(a).

DISMISSED.