

MAY 03 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 09-90154

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that a district judge made various improper substantive and procedural rulings in his civil case. These charges 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); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the judge conspired with defense counsel's "[l]aw firm in his court room to deny, dismiss, delay, frustrate abridge the rights black, brown, and poor white persons." He further explains that he is "[c]oncerned about Jewish tribalism" and alleges that the judge "did not appoint Plaintiff an attorney because the Judge wanted the Jewish Defendants and Law Firm to prevail in the legal action against the Plaintiff." But complainant hasn't provided any objectively verifiable proof to support these allegations, In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009), and adverse rulings alone are not proof of bias or conspiracy, In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Because there is no evidence that

misconduct occurred, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant next alleges that the judge lied about whether he received some of complainant's documents. The judge explained in an order that complainant's filing was rejected for failure to comply with the local rules. One of the listed deficiencies—probably the source of complainant's confusion—was “[n]o copy provided for judge.” But the rule cited for this deficiency makes it clear that the judge didn't literally mean that no copy had been filed, but rather that complainant had failed to provide a clear and legible copy conforming with the local rules. Because the judge never said that he didn't receive complainant's filing, this charge is dismissed as lacking factual foundation. See 28 U.S.C. § 352(b)(1)(B).

Complainant's allegations against defendants, defense counsel and his former co-workers are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4; In re Complaint of Judicial Misconduct, 570 F.3d 1144, 1144 (9th Cir. Jud. Council 2009). Complainant's requests for a waiver of filing fees, appointment of counsel, and a ruling in his underlying case are not cognizable under the misconduct complaint procedure. See Judicial-Conduct Rule 3(h).

DISMISSED.