

SEP 30 2010

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

Nos. 09-90183 and 10-90003

ORDER**KOZINSKI**, Chief Judge:

Complainant's charges against a bankruptcy judge who has retired are dismissed as moot. See In re Charge of Judicial Misconduct, 91 F.3d 90, 91 (9th Cir. Jud. Council 1996).

Complainant alleges that another bankruptcy judge made various improper substantive and procedural rulings. These charges are dismissed because they relate directly to the merits of the judge's rulings. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the judge is mentally disabled, had a conflict of interest, engaged in ex parte communications and demonstrated hostility. Complainant tries to support these charges by offering a hearing transcript, but nothing in the transcript suggests that the judge was disabled or hostile. Nor does the fact that a witness filed suit against the judge prove that the judge was

conflicted and should have recused himself. See United States v. Studley, 783 F.2d 934, 940 (9th Cir. 1986). And adverse rulings alone are insufficient proof of bias. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Since complainant hasn't provided any other objectively verifiable proof of the allegations, there is insufficient evidence to support an inference that misconduct has occurred. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009).

Complainant's allegations against court staff, United States Marshals, and the bankruptcy trustee's attorney are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.