

DEC 21 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALSJUDICIAL COUNCIL  
OF THE NINTH CIRCUITIN RE COMPLAINT OF  
JUDICIAL MISCONDUCT

No. 09-90232

ORDER

**KOZINSKI**, Chief Judge:

Complainant alleges that a district judge was “demonstrably egregious and hostile” towards her because he repeatedly interrupted her at a hearing and suggested that she retain an attorney to represent her in her civil case. But the transcripts reveal that the judge was polite throughout complainant’s hearings. Adverse rulings alone do not constitute proof of hostility, and complainant hasn’t provided any other objectively verifiable proof to support these allegations. Because there is no evidence that misconduct occurred, these charges must be dismissed. 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. 2009).

Complainant also alleges that the judge should have recused himself due to an alleged conflict of interest. This charge relates 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 3(h)(3)(A); In re Complaint of Judicial Misconduct, 570

F.3d 1144, 1144 (9th Cir. 2009) (“[A]ll[eg]ations that the judge should have recused himself . . . relate[] directly to the merits of the judge’s rulings and must be dismissed.”). A failure to recuse may constitute misconduct only if the judge “deliberately failed to [recuse] for improper purposes,” which was not alleged here.

Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 146 (2006) available at <http://supremecourt.gov/publicinfo/breyercommitteereport.pdf>.

Complainant also suggests that the subject judge was biased against her on account of her race, gender and pro se status. But adverse rulings alone do not constitute proof of bias, and complainant hasn’t provided any other objectively verifiable proof to support her allegations. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Because there’s 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); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

**DISMISSED.**