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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 09-90250

ORDER**KOZINSKI**, Chief Judge:

A pro se prisoner alleges that a district judge made a “bogus ruling” that prejudiced his appeal from his civil case. This charge relates directly to the merits of the judge’s rulings and must be dismissed. 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 district judge “did engaged in a cover-up” of the opposing party’s “tamper[ing] with [a] witness” by “meeting with him without permission.” But the exact same claim was rejected on appeal, and the judge’s actions “therefore cannot constitute past or future misconduct.” In re Complaint of Judicial Misconduct, 583 F.3d 599, 599 (9th Cir. 2009).

Complainant alleges that the judge “deliberately mis-represented facts of appealable issues in his order” addressing trial transcripts, but he hasn’t presented any objectively verifiable proof supporting this allegation. Nor has he provided any proof of his claim that during a pretrial hearing, the judge exhibited a “curt and

indifferent attitude towards the Complainant” and had “utter disregard for the rule of law when it concerned the party.” The hearing transcript in fact reveals that the judge addressed complainant respectfully and even took time to explain court procedures to him. That the judge ruled against complainant doesn’t prove he was biased or hostile. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Because there is no evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant has previously filed two misconduct complaints raising similar allegations against other judges, both of which were dismissed because the allegations were conclusory and related to the merits of an underlying decision. See In re Complaint of Judicial Misconduct, No. 08-90020 (9th Cir. Jud. Council 2009); In re Complaint of Judicial Misconduct, No. 08-90042 (9th Cir. Jud. Council 2009). Complainant’s attention is directed to Judicial-Conduct Rule 10(a), which provides that a “complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.”

DISMISSED.