

FEB 08 2011

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

<b>IN RE COMPLAINT OF</b>
<b>JUDICIAL MISCONDUCT</b>

Nos. 10-90082 and 10-90083

**ORDER****KOZINSKI**, Chief Judge:

A pro se litigant alleges that a magistrate judge “intimidated” him at a settlement conference into settling his employment discrimination case. A review of the conference transcript reveals no conduct by the judge that’s remotely intimidating, and complainant hasn’t provided any other proof to support his allegations. See 28 U.S.C. § 352(a); In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Because there is no evidence of misconduct, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that a district judge was “determined to dismiss me” and made “prejudicial statements” at a hearing, and that the magistrate judge lied to him and “belittled [his] Schooling.” But the hearing and conference transcripts contain no such statements. The district judge noted that complainant wouldn’t have a case if the employer’s new hire was also from the protected class, and that his inability to hire a lawyer was a bad sign, but these comments about the

merits of the case aren't proof of bias or prejudice. See In re Complaint of Judicial Misconduct, 599 F.3d 1087, 1088 (9th Cir. 2010). 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).

Complainant's allegations against the court's Pro Bono program director are dismissed because the misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

**DISMISSED.**