

MAY 18 2011

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 10-90087

ORDER**KOZINSKI**, Chief Judge:

A civil litigant alleges that a district judge presiding over his bench trial improperly admitted false testimony, interfered with cross-examination, rushed the trial and “twisted the facts” in his ruling against complainant. 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); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the judge was biased against him and “aided the Defense at trial.” Complainant tries to support this allegation by pointing to the judge’s adverse evidentiary rulings, which aren’t proof of bias. See In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011). Complainant additionally points to allegedly hostile “outburst[s]” the judge made during a pre-trial hearing and trial. But nothing in the review of the relevant transcripts supports complainant’s allegations of bias or hostility; to the contrary, the judge was commendably respectful of the litigants and their counsel at all times.

Complainant also quotes his own lawyer as expressing an opinion that complainant would not receive a fair trial because the judge “had a racial bias,” but he does not provide a declaration from the lawyer or any other support for this claim. See id.

Because complainant has provided no proof of misconduct, 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. Jud. Council 2009).

DISMISSED.