

JUL 27 2011

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 11-90068

ORDER**KOZINSKI**, Chief Judge:

A pro se creditor's husband filed a complaint alleging that a bankruptcy judge demonstrated bias against his wife in favor of a competing creditor. Complainant suspects that the judge decided to rule against his wife after receiving "a communication from a very influential relative" of the competing creditor but provides no basis for this allegation. Further, complainant alleges that the judge demonstrated bias by deliberately delaying his wife's receipt of the adverse decision until after the funds were disbursed, so it would be too late for her to challenge the ruling. Adverse rulings aren't proof of bias, and complainant hasn't offered any other basis for alleging misconduct, so these charges must be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009); see also 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the judge "deliberately and intentionally

ignored” his wife’s spousal support claim and improperly relied upon evidence provided by the competing creditor. “Assuming that failure to examine evidence would constitute misconduct, such failure may not be inferred merely from a judge’s rulings on the merits. Otherwise, disgruntled litigants could transform the misconduct procedure into a second round of appellate review by characterizing a challenge to the merits as a challenge to the consideration of the evidence—as complainant is attempting to do here. This claim is therefore dismissed as merits related. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).” In re Complaint of Judicial Misconduct, Nos. 09-90014+ (9th Cir. Jud. Council 2010).

DISMISSED.