

AUG 23 2011

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

No. 11-90098

ORDER

KOZINSKI, Chief Judge:

A pro se prisoner alleges that a district judge demonstrated bias against him and falsified medical records in order to “rid his docket of this pro se inmate case.” As support, he points to the appellate court vacating the judge’s order dismissing his case, which does not prove bias. E.g., In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011). Upon review of the available records, the charge that the judge falsified evidence must be dismissed as unfounded. 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 (9th Cir. Jud. Council 2009).

Complainant also alleges that the subject judge should have disqualified himself. A “judge’s decision to hear a case rather than to recuse is merits-related” and unreviewable by the Judicial Council. In re Complaint of Judicial Misconduct, 623 F.3d 1101, 1102 (9th Cir. Jud. Council 2010). This charge must therefore be

dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant previously filed three misconduct complaints that were dismissed because the charges were merits-related or lacked evidence. See In re Complaint of Judicial Misconduct, Nos. 09-90136 and 10-90004 (9th Cir. Jud. Council 2010); In re Complaint of Judicial Misconduct, No. 11-90051 (9th Cir. Jud. Council 2011). In my previous order, I cautioned 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.” See In re Complaint of Judicial Misconduct, No. 08-90216. Complainant is therefore ordered to show cause why he should not be sanctioned by an order requiring him to obtain leave before filing any further misconduct complaints. See Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Complainant has thirty-five days from the filing of this order to file a response, which will be transmitted to the Judicial Council for its consideration.

DISMISSED and COMPLAINANT ORDERED TO SHOW CAUSE.