

APR 16 2012

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

No. 11-90169

ORDER

KOZINSKI, Chief Judge:

An allegation that a judge acted in a case in order to favor or disfavor a party may present a viable claim of misconduct, if there's convincing evidence that the judge acted with a corrupt motive. See Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 146 (2006), available at <http://supremecourt.gov/publicinfo/breyercommitteereport.pdf>. But complainant has presented no evidence that the judge acted with a corrupt motive. The judge's prior misstatement in complainant's earlier case does not suggest a corrupt motive, especially as the judge corrected himself. This charge must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the district judge conspired with a newly reassigned magistrate judge in order to delay complainant's case and with the intent that complainant be deemed a "frivolous litigator." From a review of the docket, it appears that complainant's pending case was reassigned to a newly

appointed magistrate judge a few days after his appointment to the bench. It's standard court procedure to redistribute the case load when a new judge is appointed. There is nothing here to indicate that the district judge intentionally selected the new magistrate judge for complainant's case. Adverse rulings alone aren't proof of conspiracy, and complainant hasn't provided any other objectively verifiable proof, so these charges must be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

DISMISSED.