

JUL 11 2012

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

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 11-90177

ORDER**KOZINSKI**, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge made erroneous rulings in his criminal case. These charges relate directly to the merits of the judge's rulings and therefore are not cognizable in a misconduct proceeding. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant further alleges that the district judge suffered from debilitating health problems while his case was pending. But complainant moved to disqualify the judge on this basis, and the Chief District Judge denied the motion.

Complainant's attempt to relitigate his disqualification motion must be dismissed as merits-related. See In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009).

Complainant also alleges that the district judge improperly refused to rule on his motions to dismiss for lack of jurisdiction. The record shows that complainant filed the motions himself while represented by counsel. The district judge properly

advised complainant that, so long as he was represented, the prosecution wasn't required to respond to motions he filed on his own. This charge must be dismissed as "conclusively refuted by objective evidence." 28 U.S.C. § 352(b)(1)(B).

Finally, complainant alleges that the district judge is biased against him. "But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support th[is] allegation[], and adverse rulings alone do not constitute proof of bias." In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009); 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.