

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

APR 10 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

IN RE COMPLAINT OF JUDICIAL MISCONDUCT

No. 12-90099

ORDER**KOZINSKI**, Chief Judge:

Complainant, a pro se prisoner, alleges that a magistrate judge erroneously recommended dismissal of her complaint, rejected her motions as soon as they were filed and denied her requests for appointment of counsel in her civil case. These allegations relate directly to the merits of the magistrate judge's rulings and must therefore be dismissed. 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 also claims the judge did not read her pleadings, but provides no proof of this. This charge must therefore be dismissed as baseless. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(D).

Complainant asserts that the magistrate judge "intercepted" her motions to communicate directly with the district judge assigned to her case. But complainant provides no evidence that the magistrate judge frustrated the filing of these

requests, which appear on the docket in her civil case. Furthermore, the district judge must have received at least one of the motions because he issued a ruling on it. Because the record doesn't support complainant's charge that the magistrate impaired her efforts to seek review by the district judge, it must be dismissed. See 28 U.S.C. § 352(b)(1)(B).

Complainant faults the magistrate judge for refusing to provide her with a copy of the court's local rules. But pro se plaintiffs proceeding in forma pauperis aren't entitled to a copy of the local rules at court expense. Cf. 28 U.S.C. § 1915. In any event, the magistrate judge provided complainant with instructions for finding the rules online and contacting the local federal pro se clinic.

Complainant also alleges that the magistrate judge verbally attacked her, but she provides no information about what the judge said or when he said it. Because complainant offers no evidence in support of her claim, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). Her allegations that the judge's law clerks verbally attacked her and committed other "court crimes" must be dismissed because the misconduct complaint procedure applies only to federal judges. See 28 U.S.C. § 351(d)(1); Judicial-Conduct Rule 4.

Complainant speculates that the magistrate judge "must" have had her various civil cases transferred to his docket in order to dismiss them. But the mere

fact that the judge presided over multiple cases filed by complainant, many of which involved the same defendants, isn't proof of misconduct. See In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). Because complainant offers no evidence that the magistrate judge had any role in assigning her cases to his docket, much less that the judge acted with an improper motive, this charge must be dismissed. Id.

Complainant claims that the preceding "frivolous" actions by the magistrate judge add up to a "pattern of disability." But none of the allegations demonstrates that the magistrate judge is unable to discharge his duties. See Judicial-Conduct Rule 3(e). Nor do the judge's adverse rulings prove hostility, bias or conspiracy against pro se prisoners. See In re Complaint of Judicial Misconduct, 631 F.3d at 963. These charges must therefore be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Even if the judge's actions amounted to misconduct, which they do not, complainant's request that (1) charges be pressed for "court crimes" and that (2) her case be reassigned and reopened with appointed counsel are not forms of relief available under the misconduct complaint procedure. See 28 U.S.C. § 354(a)(2); Judicial-Conduct Rule 11(a).

DISMISSED.