

FILED

DEC 03 2013

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 13-90060

ORDER

KOZINSKI, Chief Judge:

A pro se prisoner alleges that a district judge has arranged for complainant's cases to be assigned to him in order to dismiss them. Complainant offers no evidence that the judge was involved in assigning his cases, or that he acted with an improper motive. The mere fact that the same judge presided over multiple cases involving complainant is not proof of misconduct. In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011). An individual "has no right to any particular procedure for the selection of the judge" and is only "entitled to have that decision made in a manner free from bias or the desire to influence the outcome of the proceedings." Cruz v. Abbate, 812 F.2d 571, 574 (9th Cir. 1987). Complainant has presented no evidence that an improper procedure was employed in assigning his cases to the subject judge.

An allegation that a judge presided in a case intending to favor or disfavor a party on grounds unrelated to the merits may present a viable claim of judicial

misconduct. See Judicial Conduct & Disability Act Study Comm., Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 145–146 (2006). But to state such a claim, a complainant would have to provide convincing proof that the judge was aware of a material conflict or was acting with a corrupt motive. Adverse rulings aren't proof of bias, and complainant hasn't offered any other evidence of misconduct, so this charge must be dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009); see also 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant's request for reassignment of his pending case and future cases to a different district judge is not a form of relief available under the misconduct complaint procedure. See 28 U.S.C. § 354(a)(2); Judicial-Conduct Rule 11(a).

DISMISSED.