

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

NOV 21 2014

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

<p>IN RE COMPLAINT OF</p> <p>JUDICIAL MISCONDUCT</p>
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No. 13-90075

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge improperly dismissed his objections to the transfer of his habeas case, denied his motions for record expansion, discovery and an evidentiary hearing, denied his motion to disqualify the judge and dismissed his habeas petition. These allegations call into question the correctness of the judge's decisions, and must be dismissed because they relate directly to the merits of those decisions. See Judicial-Conduct Rule 3(h)(3)(A); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); see also 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant also alleges that the judge had a conflict of interest because the judge was named as a defendant in complainant's civil case and was the subject of complainant's disqualification motion. But a party's suit against a judge doesn't necessarily subject the judge to a disqualifying conflict of interest, see United States v. Studley, 783 F.2d 934, 940 (9th Cir. 1986); see also Advisory Op. 103,

Comm. on Codes of Conduct, Jud. Conf. of the U.S. (updated 2014), and complainant provides no evidence that the judge acted with a retaliatory motive. Thus, these allegations must be dismissed as unsupported. See Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant further alleges that the judge made “deliberate false entries” when the judge returned his pro se submission. However, complainant provides no evidence of, and the docket doesn’t contain any evidence of, “false entries.” Furthermore, the manner in which complainant’s pro se submission was returned to complainant doesn’t constitute evidence of judicial misconduct. Therefore, this allegation must be dismissed as unsupported. See Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Finally, complainant alleges that the judge committed, and conspired with others to commit, acts of treason against the United States. However, adverse rulings alone aren’t evidence of treason or conspiracy, see In re Complaint of Judicial Misconduct, 631 F.3d 961, 962–63 (9th Cir. Jud. Council 2011), and complainant provides no other evidence to support these very serious allegations, see In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Therefore, they must be dismissed as unsupported. See Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant’s requested forms of relief, such as referral of the judge for

criminal prosecution, impeachment of the judge and forfeiture, are not forms of relief available under the misconduct complaint procedure. See Judicial-Conduct Rule 11(a); see also 28 U.S.C. § 354(a).

DISMISSED.