

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

JUN 11 2014

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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No. 13-90117

ORDER

KOZINSKI, Chief Judge:

A pro se litigant alleges that a district judge made erroneous rulings in his civil case. These charges relate directly to the merits of the judge’s rulings and are therefore 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 further alleges that the judge showed bias in his rulings and conspired against complainant. But adverse rulings aren’t proof of bias or conspiracy. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). In the absence of any other evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the judge delayed “a fair hearing” on complainant’s case for over a year. Delay is not cognizable misconduct “unless the allegation concerns an improper motive in delaying a particular decision or

habitual delay in a significant number of unrelated cases.” Judicial-Conduct Rule 3(h)(3)(B); see In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. 2009). Complainant has not provided any objective evidence that the alleged delay was habitual or improperly motivated. Because there is no evidence of misconduct, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant claims that the judge had improper ex parte communications with one of the opposing parties. This allegation must be dismissed because complainant has presented no facts supporting it. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the district judge failed to serve complainant with two orders. Judges aren’t responsible for serving orders and don’t have supervisory responsibility over the clerk’s office personnel in charge of service. In any event, a review demonstrates that both orders contain a certificate of service showing that the documents were mailed to complainant’s address of record. Because there is no evidence of misconduct, this charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.