

FILED

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 13-90134, 13-90135,
13-90136, 13-90137 and
13-90138

ORDER

KOZINSKI, Chief Judge:

A pro se litigant alleges that a magistrate judge and a district judge made incorrect rulings in her civil case, and that three circuit judges improperly dismissed her appeal. But any disagreement complainant has with the judges' rulings is merits related and not cognizable in a misconduct proceeding. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the judges hold a “deep-sea bias and prejudice, ill-will, hatred and malice against self-represented litigants.” In support of this allegation, complainant states that the magistrate judge said during a hearing that he “does not take seriously” claims made by pro se litigants and “takes very lightly anything written or stated by self-represented litigants.” I have reviewed an audio recording of the hearing in which these alleged statements were made. The magistrate judge made no such comments and was instead

professional, polite and patient throughout the hearing. Aside from these alleged statements and the adverse rulings, complainant provides no objectively verifiable proof that any of the subject judges harbor animus against pro se litigants. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Because adverse rulings are not evidence of bias, see In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009), complainant's allegations must be dismissed as unsupported. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the district judge “conspired with his friends, the Defendants’ attorneys, to throw the case in favor of the . . . defendants.” However, complainant provides no proof of any personal relationship between the district judge and the defendants’ attorneys, nor any evidence that the defendants were impermissibly favored in proceedings before the judge. These claims must therefore be dismissed as unsupported. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d at 1093.

Finally, complainant claims that the magistrate judge engaged in ex parte communications with the defendants and their counsel. Complainant’s sole basis for this belief is her allegation that the defendants and their counsel remained in

the courtroom after several hearings, while she sat in the hallway outside.

However, complainant fails to explain her basis for believing that the judge was also in the courtroom during this time or that any ex parte communication occurred. Therefore, complainant provides no evidence to support this allegation, and it must accordingly be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.