

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

NOV 17 2014

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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No. 13-90141

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge “interjected . . . his personal opinion” by using the expression “[i]n the Court’s experience” in an order dismissing complainant’s habeas petition. But judges are entitled to rely on their experience in making decisions. To the extent complainant claims that the judge relied too heavily on his experience, the allegation must be dismissed because it relates directly to the merits of the decision. 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).

Because complainant offers no other evidence to support a misconduct claim, the complaint must be dismissed as unsupported. See Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 631 F.3d 961, 962–63 (9th Cir. Jud. Council 2011); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant’s requests for a hearing and to disqualify the judge 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.