

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

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

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 13-90160 and 15-90077

ORDER

THOMAS, Chief Judge:

Complainant alleges that two bankruptcy judges made various improper rulings in her bankruptcy matters, including reopening her Chapter 7 proceeding and violating the statutes governing bankruptcy matters. These charges relate directly to the merits of the judges' 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 contends that the judges had a disqualifying conflict of interest after she filed misconduct complaints and civil actions naming them as defendants. She also seems to allege that one of the judges had a conflict that should have been disclosed because the judge was professionally acquainted with opposing counsel before his appointment to the bench. 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 Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 146

(2006). However, 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. In re Complaint of Judicial Misconduct, 605 F.3d 1060, 1062 (9th Cir. Jud. Council 2010). Complainant fails to make any such showing here, and has not shown that recusal was even appropriate. Accordingly the claims must be dismissed. See Id.; Judicial-Conduct Rules 3(h)(3)(A), 11(c)(1)(A), (B) and (D); United States v. Studley, 783 F.2d 934, 940 (9th Cir. 1986) (“A judge is not disqualified by a litigant’s suit or threatened suit against him”); see also Advisory Op. 103, Comm. on Codes of Conduct, Jud. Conf. of the U.S. (updated 2014).

Complainant further alleges that both judges committed fraud by “misfiling” documents in her adversary proceeding that she believed should have been docketed in the Chapter 7 matter. In response to complainant’s many motions for “docket fraud,” one of the subject judges explained that filings related to the adversary proceedings would be filed in that matter, and that complainant could move for the transfer of any documents to the Chapter 7 case. Complainant provides no evidence of, and the docket does not contain any evidence of, “docket fraud.” Because there is no evidence of judicial misconduct, this allegation must be dismissed. See Judicial-Conduct Rule 11(c)(1)(A) and (D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

Complainant alleges that the judges were biased against her on the basis of gender and ethnicity. She further claims that the judges conspired with the other participants in her bankruptcy proceedings, including the trustee, attorneys and defendants, to commit a “grand theft felony” and helped evict her and transfer her property to an illegal buyer. She calls the subject judges and other judges in the Ninth Circuit “shameless judicial gang members.” However, adverse rulings alone are not evidence of bias 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 (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 claims that the judges are so incompetent that they are unable to discharge the duties of their offices are likewise unfounded and will be dismissed. See Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii).

To the extent complainants are claiming misconduct by the chapter 7 trustee, these claims are dismissed because the Judicial Council has no authority to investigate misconduct by anyone other than federal judges. See Judicial-Conduct Rule 4.

Complainant is cautioned that “[a] complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a). Complainant’s use of pejorative and abusive language to describe the subject judges does nothing to advance her case. Any further complaints that use inappropriate language will be summarily dismissed.

DISMISSED.