

FILED

NOV 14 2014

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 13-90162, 13-90204 and
13-90205

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that a magistrate judge committed misconduct by denying his motion to comply and that two circuit judges committed misconduct by denying him a certificate of appealability. These allegations relate directly to the merits of the judges' rulings and must therefore be dismissed. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B); see also 28 U.S.C. § 352(b)(1)(A)(ii).

Complainant also alleges that all three judges were biased against him and displayed prejudice in handling his case. Adverse rulings alone aren't proof of bias, and complainant presents no other objectively verifiable proof to support these allegations. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Without such proof, these charges must be

dismissed. See In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011).

Complainant further alleges that the magistrate judge “intentionally refused to accept” a petition that he mailed to the judge, based on the fact that the United States Postal Service returned his petition to him marked “returned to sender.” Complainant provides no evidence that the judge had any involvement in this postal mishap, so this claim is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Last, complainant “respectfully asks the Chief Judge to award a certificate of appealability to him.” But this remedy is not available under the misconduct complaint procedure. See 28 U.S.C. § 354(a)(2). As complainant certified in his complaint, “even if [he] successfully prove[s] that [a] judge engaged in misconduct or is disabled, this procedure cannot change the outcome of [his] underlying case.”

Complainant is cautioned that if he continues to file “repetitive, harassing, or frivolous complaints” or “otherwise abuse[s] the complaint procedure,” he “may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a).

DISMISSED.