

**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. 13-90164

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge improperly dismissed his civil case. This allegation calls into question the correctness of the judge's decision, and 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).

Complainant also alleges that the judge was biased against him due to complainant's prior motions to disqualify the judge. However, the fact that complainant previously filed a motion to disqualify the judge isn't evidence that the judge harbored any reciprocal bias or prejudice against complainant. Complainant provides no objectively verifiable proof, such as names of witnesses, recorded documents or transcripts, to support these allegations of bias and retaliation, see In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009), and adverse rulings alone aren't evidence of bias or

retaliation, see In re Complaint of Judicial Misconduct, 631 F.3d 961, 962–63 (9th Cir. Jud. Council 2011); In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). Therefore, these charges 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 further alleges that the district judge improperly delayed his civil case. But an allegation of delay is not cognizable as 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). Because complainant doesn’t provide evidence of either improper motive or habitual delay, this allegation must also be dismissed as unsupported. See Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009); see also 28 U.S.C. § 352(b)(1)(A)(iii).

DISMISSED.