

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

OCT 06 2014

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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Nos. 13-90178 and 14-90053

ORDER

KOZINSKI, Chief Judge:

Two pro se litigants allege that the bankruptcy judge assigned to their case had a conflict of interest. These charges relate directly to the merits of the judge’s rulings and are therefore dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); see also In re Complaint of Judicial Misconduct, 623 F.3d 1101, 1102 (9th Cir. Jud. Council 2010) (holding that the decision not to recuse is merits-related). To the extent complainants allege that the judge acted with knowledge of a conflict of interest or corrupt motive, their claim is dismissed because they have produced no evidence of a corrupt motive or even that recusal was appropriate. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

Complainants also allege that the judge has yet to rule on their recusal motion. But delay is not 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); In re Complaint of Judicial

Misconduct, 567 F.3d 429, 431 (9th Cir. 2009). Because complainants provide no evidence of improper motive or habitual delay, this charge is dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Citing only adverse rulings as evidence, complainants further allege that the judge is biased against them because they are pro se. But adverse rulings aren't proof of bias, so this charge is dismissed. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009); see also 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

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.

DISMISSED.