

FILED

NOV 26 2014

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 13-90193

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge made several hostile comments toward him during a proceeding. Complainant claims that the judge stated “off the record” that he would not accept “any motion or letters from [complainant] as he doesn’t care what happens to [him].” Complainant also alleges that the judge told him he “better take the government’s plea [deal],” made comments “about [complainant’s] religion and [] health” and told complainant “to do certain things and caused [him] to bow down.” Complainant further claims to be in possession of emails between his counsel and government attorneys, which allegedly reveal the judge’s bias in favor of the government.

I conducted a limited inquiry by contacting complainant’s counsel and requesting factual support for complainant’s claims. Complainant’s counsel stated that none of the alleged comments were made in his presence, and that complainant had no occasion to communicate with the subject judge outside of

counsel's presence. Counsel also stated that the alleged emails between him and the government do not in fact exist. Because complainant provides no objectively verifiable proof to support his claims, and complainant's allegations have been directly contradicted by his counsel, the charges must be dismissed as unsupported. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009).

DISMISSED.