

AUG 27 2015

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 14-90031

ORDER**THOMAS**, Chief Judge:

A disbarred attorney alleges that a district judge made improper rulings in his civil case. These charges relate directly to the merits of the judge's rulings and must be 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 further alleges that the judge should have recused herself due to an alleged conflict of interest. Allegations that a judge erred in failing to recuse are merits-related and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. 2009). An allegation that a judge presided in a case knowing that he was subject to a conflict of interest may present a viable claim of judicial misconduct. However, a complainant must provide convincing proof that the judge was aware of the conflict or was acting with a corrupt motive. See In re Complaint of Judicial

Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011). Complainant raised the same recusal claim on appeal, and the Court of Appeals found that complainant “failed to establish any basis for recusal.” Because complainant provides no evidence here, the allegation is dismissed as unfounded. 28 U.S.C.

§ 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleged that the judge committed misconduct by “plagiarizing” parts of the defendants’ motion to dismiss in her order dismissing the case. Both documents have been reviewed, and even though there are some similarities in the cited facts and case law, there is no doubt that the judge’s opinion is the product of her own reflection. This charge is dismissed because it lacks sufficient evidence to raise an inference of misconduct. See 28 U.S.C.

§ 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

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).

DISMISSED.