

FILED

MAY 10 2016

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 16-90037 and 16-90038

ORDER

THOMAS, Chief Judge:

Complainant, a defendant in criminal proceedings, alleges that a district judge and a magistrate judge improperly rejected filings and denied motions, ordered complainant detained, and made various other improper rulings in the underlying case. These allegations relate directly to the merits of the judges' 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 both judges are prejudiced against him. However, adverse rulings alone are not proof of bias, and complainant provides no objectively verifiable evidence to support these allegations, which must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the district judge improperly presided over the underlying case after it was reassigned to a different judge. A review of the record shows that the chief district judge in fact reassigned this case to the subject judge. Moreover, our circuit has held that an individual “has no right to any particular procedure for the selection of [a] judge” and is only “entitled to have that decision made in a manner free from bias or the desire to influence the outcome of the proceedings.” Cruz v. Abbate, 812 F.2d 571, 574 (9th Cir. 1987). Complainant offers no evidence that the underlying case was assigned with an improper motive or purpose, or that the subject judge was even involved in the case assignment. Accordingly, these allegations are “conclusively refuted by objective evidence,” 28 U.S.C. § 352(b)(1)(B), and are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(D).

Complainant’s request that his case be reassigned to a different district judge is denied, as such relief is unavailable in these misconduct proceedings. See 28 U.S.C. § 354(a)(2); Judicial–Conduct Rule 11(a).

DISMISSED.