

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

MAY 10 2016

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

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 16-90039 and 16-90040

ORDER

THOMAS, Chief Judge:

Complainant, a pro se litigant, alleges two circuit judges engaged in “extrinsic fraud” by affirming on appeal the district court’s dismissal of her civil case. Complainant claims that the appellate court did not have jurisdiction to rule on her appeal because the order issued in the district court was void. Complainant filed two previous misconduct complaints against the magistrate judge and the district judge assigned to her civil case challenging the legitimacy of their rulings, which were both dismissed. See In re Complaint of Judicial Misconduct, No. 13-90177 (9th Cir. Jud. Council 2014) and In re Complaint of Judicial Misconduct, Nos. 14-90065+ (9th Cir. Jud. Council 2015). To the extent that complainant is resurrecting those claims, no further action is necessary. See 28 U.S.C. 352(b)(2); In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(C). As for claims against the subject judges, a review of the appellate docket reveals no evidence of fraud or misconduct, and this allegation is dismissed as unfounded. 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).

Complainant further claims that the judges retaliated against her and treated her in a “demonstrably egregious manner.” Adverse rulings are not proof of retaliation, and complainant provides no objectively verifiable proof that either judge treated her in a demonstrably egregious or hostile manner, and accordingly these allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 761 F.3d 1097, 1098-99 (9th Cir. Jud. Council 2014); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rules 3(h)(1)(D), 11(c)(1)(D).

Further misconduct complaints presenting fundamentally the same allegations may be summarily dismissed as frivolous. Judicial-Conduct Rule 11(c)(1)(C). Moreover, 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.