

FILED

MAY 12 2016

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 16-90064

ORDER

THOMAS, Chief Judge:

Complainant, an expert witness who testified at a civil trial, alleges that a district judge incorrectly stated in a written order that complainant is not in fact a specialist in the relevant field. To the extent complainant alleges that the judge incorrectly assessed complainant's credibility or expertise, these allegations 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 also contends that the judge's statements hurt him professionally, were false in light of the record, and were unfair. A review of the underlying record does not reveal any instances of misconduct. The judge, as finder of fact, did not consider complainant to be a specialist in the relevant field, despite complainant's educational and professional background. However, complainant does not allege, and the record does not indicate, that the judge

treated him in such an egregious or hostile manner as to constitute misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009); Judicial-Conduct Rules 3(h)(1)(D). Nor do the judge's comments reflect an improper motive for his rulings. See In re Complaint of Judicial Misconduct, 761 F.3d 1097, 1098-99 (9th Cir. 2014). Accordingly, this complaint is dismissed for failure to allege conduct prejudicial to the effective and expeditious administration of the business of the courts. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 647 F.3d 1181, 1182 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.