

FILED

AUG 17 2016

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 16-90102

ORDER

THOMAS, Chief Judge:

Complainant, a defendant in a criminal case, alleges that a district judge improperly denied a motion to substitute counsel and made various other improper rulings. 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 further alleges that the judge exhibited bias by stating that the evidence “tends to be one-sided in cases like these,” and that the prosecutor “tends to hold the cards.” A review of the record, including the docket entries cited by complaint, does not show that the judge in fact ever made these comments. In any event, complainant fails to explain how these alleged statements would constitute evidence of bias, and accordingly, this charge is dismissed as unfounded and for failure to allege misconduct. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct

Rule 11(c)(1)(A), (D); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1147 (9th Cir. 2009).

To the extent complainant alleges that the judge improperly denied a motion to recuse, complainant offers no evidence that the judge failed to recuse for an improper purpose, and accordingly this charge must be dismissed as merits-related. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(B).

DISMISSED.