

**FILED**

SEP 22 2016

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 16-90120

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge held improper ex parte communications with opposing counsel in his underlying civil case. As proof, complainant cites to a deposition at which complainant and opposing counsel disagreed on whether the judge had ruled to allow further amendments to the civil complaint. This is not evidence of an ex parte communication.

Complainant's allegations are based entirely on speculation and conjecture, and must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“complainant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

Next, complainant alleges that the judge made inconsistent or false statements in her orders. Specifically, in one order, the judge indicated that she had made an indirect inquiry as to whether a member of the local Bar might be

willing to represent complainant on a volunteer basis. In a later order, the judge clarified that she had not *directly* contacted any attorneys, but rather, had made an *indirect* inquiry to a court employee on the matter. Contrary to complainant's allegations, these two statements are neither inconsistent nor evidence of "deliberate false information." Accordingly, this charge is dismissed as unfounded and for failure to allege misconduct. 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) ("Because complainant doesn't allege conduct 'prejudicial to the effective and expeditious administration of the business of the courts,' her charges must be dismissed"); Judicial-Conduct Rules 11(c)(1)(A), (D).

Finally, complainant alleges that the judge is biased against him, and "takes vengeance" against him in her orders. Adverse rulings alone are not proof of bias, and complainant provides no objectively verifiable evidence to support these allegations, which are 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).

**DISMISSED.**