

JAN 29 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 17-90075

**ORDER****THOMAS**, Chief Judge:

Complainant, a creditor in a bankruptcy case, alleges that a bankruptcy judge improperly denied a recusal motion and made various other improper rulings in the underlying proceedings. 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 Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011) (“Allegations that a judge erred in failing to recuse are generally dismissed as merits-related”); 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 alleges that the judge directed “personal demeaning insults” at complainant. A review of the record, including the transcripts submitted by complainant, belies this claim. Read in context, the judge’s statements were a permissible comment on the acrimony between the parties, and on complainant’s arguments and litigation tactics. None of the cited statements

amounted to “demonstrably egregious and hostile” treatment. See In re Complaint of Judicial Misconduct, 761 F.3d 1097, 1099 (9th Cir. Jud. Council 2014)

(“Misconduct includes treating litigants or attorneys in a demonstrably egregious and hostile manner. The comments here do not meet that standard. The judge did not use demeaning language or heap abuse on anybody”) (internal quotations omitted); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009) (“Complainant did allude to one hearing in particular . . . . The transcript there indicates that the judge, while frustrated by the tactics of both parties, remained professional and did not exhibit bias. Allegedly improper statements quoted by complainant were, in context, completely benign”).

Accordingly, these allegations are dismissed as unfounded and conclusively refuted by objective evidence. See 28 U.S.C. § 352(b)(1)(A)(iii), (b)(1)(B); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that the judge is biased against complainant and has an “impenetrable private relationship” with the U.S. Trustee. However, adverse rulings are not proof of bias or collusion, and complainant provides no objectively verifiable evidence to support these allegations, which are 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).

**DISMISSED.**