

FILED

DEC 11 2017

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 17-90095

ORDER

THOMAS, Chief Judge:

Complainant, a pro se litigant, makes several allegations against the district judge assigned to her underlying civil actions. To the extent complainant alleges that the judge improperly dismissed a case, denied in forma pauperis status, failed to recuse himself, or made other incorrect rulings, such allegations relate directly 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 alleges that the judge violated “the Ex Parte Clause.” To the extent complainant alleges that the judge had improper ex parte communications, she presents no 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).

Complainant also alleges that the judge is biased against complainant on the bases of race and mental disability. However, adverse rulings alone are not proof of bias, 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).

Finally, complainant makes several vague and conclusory allegations, including that the judge engaged in “willful and wanton misconduct” and “retaliation against a pro se,” and that the judge “used his position to protect attorneys” and to “cause financial, emotional, mental harm and obstruction of the judicial process.” Complainant provides no evidence or specific factual allegations in support of these charges, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1147 (9th Cir. Jud. Council 2009); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require. This claim must therefore also be dismissed”); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant requests that the judge be disqualified from the underlying proceedings, the request is denied because such relief is not available in judicial misconduct proceedings. 28 U.S.C. § 354(a)(2); In re Complaint of Judicial Misconduct, 630 F.3d 1262 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(a).

To the extent complainant makes allegations against government attorneys, such allegations are dismissed because this judicial misconduct procedure only applies to federal judges. See In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

DISMISSED.