FILED

JAN 31 2011

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

JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF JUDICIAL MISCONDUCT	Nos. 10-90089 and 10-90090 **ORDER**

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that two circuit judges improperly prevented his mandamus petitions from being reviewed by an en banc court. But complainant provides no proof whatsoever of any improper conduct on the part of the judges. See In re Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. 2009). This charge must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the judges weren't randomly assigned to the panels that ruled on his petitions. All mandamus petitions are referred to a motions panel, whose judges are chosen by rotation. See 9th Cir. G.O. 6.2(a), 6.8(a). The Ninth Circuit's General Orders assign calendaring responsibility to the Clerk of Court, and complainant has provided no evidence that the subject judges had any involvement in the calendaring of his petitions. This charge must therefore be dismissed. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th

Cir. 2009).

Complainant's allegation that the judges ruled against him "as a favor" to a district judge in another circuit must be dismissed because adverse rulings aren't proof of bias or conspiracy, and complainant hasn't provided any other proof to support his claim. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009).

DISMISSED.