

OCT 18 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

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| IN RE COMPLAINT OF JUDICIAL MISCONDUCT |
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Nos. 12-90063 and 12-90064

ORDER**KOZINSKI**, Chief Judge:

Complainant alleges that a district judge and a magistrate judge made erroneous rulings and recommendations in his civil case, including their decisions not to recuse themselves. These charges relate directly to the merits of the judges' rulings and are therefore 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); In re Complaint of Judicial Misconduct, 623 F.3d 1101, 1102 (9th Cir. Jud. Council 2010) (holding that the decision not to recuse is merits-related); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the judges engaged in ex parte communications with opposing parties. Because complainant has provided no objectively verifiable proof to support this allegation, the charge is dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009); Judicial-Conduct Rule 11(c)(1)(D).

The Council dismissed complainant's previous misconduct allegations against these judges as merits-related and unsupported. See In re Complaint of Judicial Misconduct, 631 F.3d 961 (9th Cir. Jud. Council 2011). Complainant is cautioned that a "complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints." Judicial-Conduct Rule 10(a).

DISMISSED.