FILED

NOV 20 2014

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

JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF **JUDICIAL MISCONDUCT**	Nos. 13-90025, 13-90026, 13-90027 and 13-90028 **ORDER**

PREGERSON, Circuit Judge[1]:

A pro se prisoner alleges that three circuit judges improperly denied him an en banc hearing, but the allegation is unfounded because these judges never issued such a ruling. Instead, the three named judges found, pursuant to a pre-filing order, that another of complainant's appeals was so insubstantial as to not warrant further review, and did not allow the appeal to proceed. To the extent that complainant disagreed with that order, the charges relate directly to the merits of the judges' rulings and must therefore be 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); Judicial-Conduct Rule 11(c)(1)(B).

Complainant alleges that these three judges dismissed his appeal to "take revenge" on him because he has filed prior misconduct complaints. Adverse

[1]This complaint was assigned to Circuit Judge Harry Pregerson pursuant to 28 U.S.C. § 351(c).

rulings are not proof of bias or conspiracy, and complainant hasn't provided any objectively verifiable proof of to support his claims. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. Jud. Council 2009). These charges must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009).

Complainant alleges that another circuit judge improperly handled his previous misconduct complaint against one of the current subject judges by ignoring the misconduct. Complainant previously filed two misconduct complaints naming seven judges of this circuit, but neither named the subject judge. Thus, complainant's claim has no basis. To the extent that complainant claims that the judge took too long to resolve either of the prior complaints, this charge also is dismissed because complainant does not provide evidence of either improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases." Judicial-Conduct Rule 3(h)(3)(B); In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. 2009).

Complainant's two previous misconduct complaints were dismissed as merits-related and unsupported. See In re Charge of Judicial Misconduct, No. 10-90086 (9th Cir. Jud. Council 2011); In re Complaint of Judicial Misconduct, Nos.

11-90170+ (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.