

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

FILED

SEP 9 2015

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

<p>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</p>
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Nos. 15-90060, 15-90061,
15-90062 and 15-90063

ORDER

THOMAS, Chief Judge:

A pro se prisoner alleges that three district judges and a magistrate judge have been “deliberately indifferent” to him and have mishandled his civil cases. Complainant further claims that at least one of the judges should have recused from presiding over his cases. Any disagreement complainant has with the judges’ rulings is merits-related and not cognizable in a misconduct proceeding. 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). Further, allegations that a judge erred in failing to recuse are merits-related and must be dismissed. See In re Complaint of Judicial Misconduct, 570 F.3d 1144 (9th Cir. Jud. Council 2009). An allegation that a judge presided in a case knowing that he was subject to a conflict of interest may present a viable claim of judicial misconduct. But to state such a claim, a complainant must provide convincing proof that the judge was aware of the conflict or was acting with a corrupt motive. See In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council

2011). The evidence presented in this case is insufficient to make such a showing, and the allegations are dismissed for lack of objectively verifiable proof. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant claims that the judges have colluded with defendants, but adverse rulings are not proof of conspiracy. See In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009). Further, complainant provides no objectively verifiable proof (for example, names of witnesses, recorded documents or transcripts) to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009). Without such evidence, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that one of the judges could possibly be related to a defendant in one of his cases because they share the same last name. He thinks this alleged conflict of interest is an “inexcusable act of cronyism.” This allegation is dismissed for lack of objectively verifiable proof. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that the magistrate judge has delayed screening his amended complaints in two cases. Complainant offers no evidence that the alleged delay is based on improper motive, or that the magistrate judge has habitually delayed ruling in a significant number of unrelated cases. Accordingly,

this allegation must be dismissed. See In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 3(h)(3)(B).

Complainant's allegations against court staff must be dismissed because this complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.