

FILED

OCT 19 2016

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 16-90134

ORDER

THOMAS, Chief Judge:

Complainant, a pro se prisoner, previously filed a judicial misconduct complaint against a district judge and a magistrate judge alleging that they mishandled his civil case against a prison warden. I dismissed the claims as merits-related and unfounded, and the Judicial Council affirmed. See In re Complaint of Judicial Misconduct, Nos. 16-90041+ (9th Cir. Jud. Council May 10, 2016), aff'd, In re Complaint of Judicial Misconduct, Nos. 16-90041+ (9th Cir. Jud. Council July 7, 2016).

Immediately following the resolution of the judicial misconduct matter, complainant filed a civil rights action raising similar claims against both judges named in his previous misconduct complaint, and also named all judges involved in the consideration of the misconduct complaint and several attorneys involved in his underlying suits. Another district judge dismissed the civil rights action based on judicial immunity and the law of the case doctrine. Complainant now alleges

the district judge improperly dismissed his case. Because this allegation relates directly to the merits of the judge's ruling, it must 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 further alleges that the judge conspired with other judges and retaliated against complainant for exercising his First Amendment rights.

However, adverse rulings alone cannot prove retaliation or conspiracy. See In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009).

Because complainant offers no other evidence to support his claims, these charges are dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

In a previous order, complainant was 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.” See In re Complaint of Judicial Misconduct, Nos. 16-90041+. Accordingly, complainant is ordered to show cause why he should not be sanctioned by an order requiring him to obtain leave before filing any further misconduct complaints. See Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Complainant has thirty-five days from

the filing of this order to file a response, which will be transmitted to the Judicial Council for its consideration.

DISMISSED and COMPLAINANT ORDERED TO SHOW CAUSE.