

**FILED**

JAN 20 2017

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 17-90007 and 17-90008

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se prisoner, alleges that two circuit judges improperly handled his habeas appeal, which was dismissed as untimely. These allegations relate directly to the merits of the judges' ruling and must be dismissed. Further, complainant's allegations about the fairness of the Federal Rules of Civil Procedure and the Prison Litigation Reform Act are 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 Rules 3(h), 11(c)(1)(B).

**DISMISSED.**