

FILED

SEP 27 2017

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 17-90070

ORDER

THOMAS, Chief Judge:

Complainant, a pro se prisoner, alleges that a magistrate judge “refuse[d] or forestalle[d]” filing his civil rights complaint. A review of the record indicates that the judge ordered complainant to correct deficiencies in his application to proceed in forma pauperis, and that complainant responded to the order but then filed a notice of appeal before any further ruling was entered. To the extent complainant alleges that the judge improperly denied his application, or made other improper rulings, this allegation relates directly to the merits of the judge’s rulings and 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).

To the extent complainant alleges that the judge improperly delayed ruling, he offers no evidence that the alleged delay was based on improper motive, or that the judge has habitually delayed ruling in a significant number of unrelated cases.

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

Complainant has now filed four separate misconduct complaints against a total of five judges, and was cautioned in a previous order that repetitive, harassing or frivolous complaints may result in complainant being restricted from filing further complaints. See In re Complaint of Judicial Misconduct, Nos. 15-900083 and 15-900084. Accordingly, complainant is ordered to show cause why he should not be sanctioned by a restrictive filing order. 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.