

FEB 22 2010

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-90217

ORDER

KOZINSKI, Chief Judge:

Complainant previously filed a misconduct complaint alleging that the district judge assigned to his civil case should not have rejected his filings because the case was closed. I dismissed the complaint and the Judicial Council affirmed. See In re Complaint of Judicial Misconduct, No. 07-89133 (9th Cir. Jud. Council 2008). The current complaint repeats this allegation against the same judge and complainant again fails to provide any supporting evidence. My prior order therefore makes further action on this charge unnecessary. See 28 U.S.C. § 352(b)(2); In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. Jud. Council 2009).

Complainant also appears to allege that the judge is “withholding evidence” by not returning his second amended complaint. But a judge has no duty to return documents to the parties. This charge must be dismissed because it does not amount to “conduct prejudicial to the effective and expeditious administration of

the business of the courts.” See 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A). To the extent complainant requests that the judge return his second amended complaint and file certain documents, those requests are not cognizable in this proceeding. See Judicial-Conduct Rule 3(h).

Further misconduct complaints presenting essentially the same allegations will be summarily dismissed as frivolous. Moreover, complainant is cautioned that filing “repetitive, harassing, or frivolous complaints, or . . . otherwise abus[ing] the complaint procedure” may cause him to be “restricted from filing further complaints.” Judicial-Conduct Rule 10(a); see In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.