

JAN 16 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 08-89009, 08-90021,
08-90022, 08-90189, 08-90190,
08-90191, 08-90192, and
08-90193

ORDER

SCHROEDER, Circuit Judge¹:

Complainant, a pro se litigant, has filed eight misconduct complaints. Four complaints have been filed against four circuit judges, and four additional complaints have been filed against two district judges. Complainant's supplements to his complaints have also been considered.

Complainant alleges that the district judges misapplied the law, misapprehended the facts and otherwise made incorrect decisions. Complainant further alleges that three of the named circuit judges, who found his appeal so insubstantial as to not warrant further review, failed to follow procedural requirements. All these charges relate directly to the merits of the judges' rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-

¹ This complaint was assigned to Circuit Judge Mary M. Schroeder pursuant to 28 U.S.C. § 351(c).

Conduct Rule 11(c)(1)(B). A misconduct complaint is not a proper vehicle for challenging the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant alleges that the fourth circuit judge improperly delayed ruling on his complaints. Delay is not a proper subject of a misconduct complaint unless the circumstances are extraordinary, or where the delay is habitual, or improperly motivated. Judicial-Conduct Rule 3(h)(3)(B). Such is not the case here.

Complainant's allegations against court staff must be dismissed because this complaint procedure applies only to federal judges. Judicial-Conduct Rule 8(d).

Complainant has filed at least fifteen previous complaints; all were dismissed because complainant's allegations were conclusory and/or related to the merits of the underlying decision. Complainant was previously cautioned that filing frivolous complaints could result in future filing restrictions. See Complaint of Judicial Misconduct No. 04-89046. Complainant is therefore 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). Complainant has thirty 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.